Vol.42—No.229
11–29–77

PAGES
60721–60903

federal register

TUESDAY, NOVEMBER 29, 1977

highlights

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

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

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

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Scheduling of documents for publication.	523–3187
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5237
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–3517
Code of Federal Regulations (CFR)	523–3419
	523–3517
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5286
Weekly Compilation of Presidential Documents.	523–5284
Public Papers of the Presidents	523–5285
Index	523–5285
PUBLIC LAWS:	
Public Law dates and numbers	523–5266
	523–5282
Slip Laws	523–5266
	523–5282
U.S. Statutes at Large	523–5266
	523–5282
Index	523–5266
	523–5282
U.S. Government Manual	523–5287
Automation	523–5240
Special Projects	523–4534

HIGHLIGHTS—Continued

contents

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 (10 documents) 60745, 60746

7 CFR

2 60721
301 60722
722 60722
982 60722
984 60723
1250 60723

PROPOSED RULES:

1701 (3 documents) 60748, 60749

9 CFR

73 (2 documents) 60724

10 CFR

1001 60725

12 CFR

1 60727
303 60728
339 60728

PROPOSED RULES:

71 60749

13 CFR

107 60729

PROPOSED RULES:

107 60751

14 CFR

298 60730
385 60732

16 CFR

13 60733

PROPOSED RULES:

1013 60752
1304 60752
1305 60752
1402 60752

17 CFR

240 60734

21 CFR

81 (2 documents) 60734, 60736
82 60736
314 60737

24 CFR

1917 (28 documents) 60866–60878

29 CFR

1209 60739
2520 60898

PROPOSED RULES:

1990 60753
2520 60899

30 CFR

PROPOSED RULES:

211 60890

31 CFR

4 60741

40 CFR

205 60741

PROPOSED RULES:

52 60753

42 CFR

35 60742
57 60880

PROPOSED RULES:

51a 60761

47 CFR

73 60743

PROPOSED RULES:

73 60764

50 CFR

17 60743

PROPOSED RULES:

17 60765

CUMULATIVE LIST OF PARTS AFFECTED DURING NOVEMBER

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 November.

1 CFR

Ch. I 57115
416 59747

PROPOSED RULES:

461 57463

3 CFR

PROCLAMATIONS:

4334 (Amended by Proc. 4539) 59039
4463 (Amended by Proc. 4539) 59039
4466 (Amended by Proc. 4539) 59039
4535 58397
4536 58729
4537 59035
4538 59037
4539 59039
4540 59261
4541 60557

EXECUTIVE ORDERS:

10631 (Amended by EO 12017) 57941
11476 (Amended by EO 12018) 57943
11835 (See EO 12018) 57945
12016 57297
12017 57941
12018 57943
12019 57945
12020 58509

PROPOSED EXECUTIVE ORDERS:

November 17, 1977 59740

MEMORANDUMS:

August 27, 1976 (Supplemented by Memorandum of November 5, 1977) 59363
November 19, 1976 (Supplemented by Memorandum of November 5, 1977) 59363
July 21, 1977 (Supplemented by Memorandum of November 5, 1977) 59363
November 5, 1977 59363
November 14, 1977 59365

5 CFR

213 (3 documents) 57115–57117, 57683, 58151, 58152, 58731, 59506, 59507, 60111–60113, 60745, 60746

7 CFR

2 60721
6 57117
12 57683
250 59880
271 ..... 58152–58158, 59879
301 60722
401 58929
406 57299
409 57299
601 59955
654 58159
722 ..... 58731, 60722
726 58731
729 59879
780 58162
905 ..... 57947, 59367, 59955
906 ..... 57299, 59747
907 ..... 59372, 59956
910 ..... 57684, 58733, 59508, 60113
915 58511
927 59041
929 58733
931 57117

7 CFR—Continued

944 57947
966 57445
971 ..... 58399, 59373
982 ..... 58733, 60722
984 ..... 57948, 60723
989 ..... 57683, 60559
1004 59956
1030 59041
1068 59747
1250 60723
1435 58734
1453 57948
1464 59507
1488 57949
1701 60113
1822 ..... 59042, 59052
1901 ..... 57118, 58736
1955 57684
2855 57300
2856 57301
2858 57301
2870 57301

PROPOSED RULES:

46 59088
210 59883
272 57694
728 59089
725 57131
905 57694
907 60568
909 59979
911 59979
915 59979
929 58532
945 58951
987 ..... 59509, 60568
989 ..... 57131, 58759
1004 59980
1030 57319
1133 57466
1435 58759
1464 ..... 57319, 57466, 58414, 59883
1701 ..... 57694, 60748, 60749
1901 58532

8 CFR

PROPOSED RULES:

242 59509

9 CFR

73 ..... 57118, 59835, 60116, 60724
78 ..... 57118, 60116
92 57121
97 59062
113 59487
362 57121

PROPOSED RULES:

113 ..... 59509, 59510, 60158
381 59884

10 CFR

210 ..... 57320, 57326
211 ..... 57320, 57326, 59488
212 ..... 57320, 57326, 59490
430 60150
1001 60725

11 CFR

PROPOSED RULES:

4 59944

12 CFR

1 60727
201 57302
213 58737
217 57950
226 58163
265 60559
303 ..... 57685, 60728
308 ..... 59491–59493, 60560
339 60728
311 59493
701 57685

PROPOSED RULES:

71 60749
204 58760
213 58760
528 ..... 58182, 58953
202 59980
531 58953
545 57131
701 59980

13 CFR

107 ..... 60560, 60729
305 59835
315 59836
317 57685

PROPOSED RULES:

107 60751
120 ..... 58538, 60159

14 CFR

39 ..... 57445, 57951, 58511–58515, 58929 57951, 58511–58515, 58929, 59374–59377, 59748, 59749, 60119
71 ..... 57445, 57446, 57952, 58515, 58930, 58931, 59377, 59749–59752, 60118–60123, 60560, 60561
75 ..... 59752, 60123
91 57446
95 57952
97 ..... 57448, 59377
152 59476
201 59837
241 60123
243 58902
248 59063
250 57326
288 58902
296 57326
298 60730
370 60714
378a 58515, 59753
385 60732
399 58913
1245 57449

PROPOSED RULES:

21 ..... 59089, 59388
36 ..... 59089, 59388
39 ..... 57968, 58538
47 57968
71 ..... 57468–57470, 57969–57971, 58539–58541, 58956, 58957, 59389, 59757–59759, 60159–60164, 60569–60571
73 ..... 58957, 60571
75 57971
91 ..... 57470, 57968, 59089, 59388
241 59884
302 57132

50 CFR—Continued

32 ..... 57692, 57693, 58531, 59278, 59279, 59387
33 ..... 58411, 59279, 59755, 59851
216 60149
611 ..... 60149, 60682
651 58412
652 59948

50 CFR—Continued

PROPOSED RULES:

17 ..... 57329, 57492, 60579, 60765
20 59987
216 ..... 58419, 60185
255 58963

FEDERAL REGISTER PAGES AND DATES—NOVEMBER

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
57115–57296	Nov. 1	58509–58728	10	59487–59746	18
57297–57443	2	58729–58928	11	59747–59833	21
57445–57681	3	58929–59033	14	59835–59954	22
57683–57939	4	59035–59259	15	59955–60110	23
57941–58149	7	59261–59362	16	60111–60555	25
58151–58395	8	59363–59485	17	60557–60720	28
58397–58507	9			60721–60903	29

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

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

List of Public Laws

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

rules and regulations

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The delegations of authority of the Department of Agriculture are amended to reflect the new position of Director, Office of Governmental and Public Affairs and to realign certain Department functions under this general officer. The Department has determined that the functions performed by the Office of Congressional and Public Affairs, the Office of Intergovernmental Affairs and the Office of Communication should be merged to form the new office.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Preston Davis, Management Division, Office of Budget, Planning and Evaluation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5301.

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulation is amended as follows:

Subpart A—General

1. Section 2.4 is amended to read as follows:

§ 2.4 General Officers.

The work of the Department is under the supervision and control of the Secretary, who is assisted by the following general officers: The Deputy Secretary; the Assistant Secretary for Conservation, Research and Education; the Assistant Secretary for Food and Consumer Services; the Assistant Secretary for International Affairs and Commodity Programs; the Assistant Secretary for Marketing Services; the Assistant Secretary for Rural Development; the General Counsel; the Director of Economics, Policy Analysis and Budget; the Director, Office of Governmental and Public Affairs; the Assistant Secretary for Administration; the Inspector General; and the Judicial Officer.

Subpart C— Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs.

2. The heading of Subpart C is amended to read as set forth above.

3. Section 2.13, paragraph (c) is revoked as follows:

§ 2.13 Delegations of authority to the Deputy Secretary.

* * * * *

(c) [Revoked]

4. Section 2.29 is revoked and the following substituted in lieu thereof:

§ 2.29 Delegations of authority to the Director, Office of Governmental and Public Affairs.

The following delegations of authority are made by the Secretary of Agriculture to the Director, Office of Governmental and Public Affairs:

(a) *Related to congressional affairs.* (1) Exercise responsibility for coordination of all congressional matters in the Department.

(2) Maintain liaison with the Congress and the White House on legislative matters of concern to the Department.

(b) *Related to public affairs.* (1) Advise and counsel general officers on public affairs matters to the Department.

(2) Organize and direct the activities of a public affairs office to include press relations of the Secretary of Agriculture and other executive functions and services for general officers of the Department.

(c) *Related to information activities.* (1) Advise the Secretary and general officers in the planning, development, and execution of Department policies and programs.

(2) Direct and coordinate the overall formulation and development of policies, programs, plans, procedures, standards and organization structures and staffing patterns for the information activities of the Department and its agencies, both in Washington and in the field.

(3) Exercise final review and approval of all public information material prepared by the Department and its agencies and select the most effective method and audience for distributing this information.

(4) Determine policy for all Departmental communication activities and agency information activities so that all provide leadership and centralized operational direction for Department and agency information activities so that all material shall effectively support Department policies and programs, including the defense program.

(5) Represent the Department with the Joint Committee on Printing of the Congress, the Government Printing Office, and other Federal and State agencies on information matters.

(6) Cooperate with and secure the cooperation of commercial, industrial and other nongovernmental agencies and concerns regarding information work as required in the execution of the Department's programs.

(7) Plan and direct communication research and training for the Department and its agencies.

(8) Advise general officers and Agency Heads on application of information policies to comply with provisions of the "Freedom of Information Act" (5 U.S.C. 552), and provide consultation to general officers when there is a recommendation within the Department or its agencies to deny written requests for information under the Freedom of Information Act.

(9) Supervise and provide leadership and final clearance for the planning, production, and distribution of visual information material for the Department and its agencies in Washington, D.C., and the field, and provide such information services as may be deemed necessary.

(d) *Related to intergovernmental affairs.* (1) Coordinate all programs involving intergovernmental affairs including State and local government relations and liaison with:

National Association of State Departments of Agriculture.
Federal Preparedness Agency.
Defense Civil Preparedness Agency.
Office of Intergovernmental Relations (Office of the Vice President).
Advisory Commission on Intergovernmental Relations.
Council of State Governments.
National Governors Conference.
National Association of Counties.
National League of Cities.
International City Managers Association.
U.S. Conference of Mayors.

Such other State and Federal agencies, departments and organizations as are necessary in carrying out the responsibilities of this office.

(2) Coordinate the Departments emergency preparedness program and disaster emergency response program including maintenance of an appropriate system whereby the Department can re-

act immediately when notified of a civil defense or natural disaster emergency.

(3) Maintain an overview of emergency relocation facilities and assure that resources are in a constant state of readiness.

(4) Maintain oversight of the activities of USDA representatives to the 10 Federal Regional Councils.

(5) Serve as the USDA contact with the Advisory Commission on Intergovernmental Relations for implementation of OMB Circular A-85 to provide advance notification to State and local governments of proposed changes in Department programs that affect such governments.

(6) Act as the Department representative for Federal executive board matters.

(7) Direct the entire defense program of USDA. This includes: (i) Maintaining liaison with executive departments and the Congress with respect to policy matters; (ii) supervising and directing USDA regional emergency staffs and USDA State and county emergency boards; (iii) directing the USDA part of the national defense executive reserve program; (iv) providing policy guidance to USDA agencies in carrying out specific defense assignments; and (v) representing the Department in matters relating to international defense organizations, such as NATO and its suborganizations.

(8) Coordinate and facilitate USDA operations of natural disaster programs, including liaison with executive departments and the Congress in disaster matters.

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

§ 2.32 [Revoked and reserved.]

5. Section 2.32 is revoked and reserved as follows:

Subpart E—Delegations of Authority by the Deputy Secretary

§ 2.46 [Revoked and reserved.]

6. Section 2.46 is revoked and reserved as follows:

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Dated: November 22, 1977.

For Subparts A, C and D.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart E:

JOHN C. WHITE,
Deputy Secretary of Agriculture.

[FR Doc.77-34263 Filed 11-28-77;8:45 am]

[1505-01]

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

PART 301—DOMESTIC QUARANTINE

Subpart—Mexican Fruit Fly

EXEMPTIONS

Correction

In FR Doc. 77-30206 appearing at page 55189 in the issue for Friday, October 14, 1977, on page 55190, in § 301.64-2b insert "Guam;" between "Puerto Rico" and "and the Virgin Islands".

[3410-05]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1978 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to establish State reserves, allocate State reserves to counties and establish county allotments for the 1978 crop of extra long staple cotton (referred to as "ELS" cotton). The need for this rule is to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: November 25, 1977.

ADDRESSES: Production Adjustment Division, ASCS, USDA, 3630 South Building P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS), 202-447-3418.

SUPPLEMENTARY INFORMATION: A notice that the Secretary of Agriculture was preparing to establish 1978 State and county ELS cotton allotments was published in the FEDERAL REGISTER on September 16, 1977 (42 FR 46542) in accordance with 5 U.S.C. 553. No comments or recommendations were received concerning these determinations.

Determinations with respect to 1978 State reserves and allocation of State reserves to counties were made initially by the respective State committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (35 FR 19798, 36 FR 6907, 37 FR 624, 3845, 22008, 40 FR 18815).

In order that farmers may be informed of 1978 farm allotments as soon as possible so that they may make plans accordingly, it is essential that these provisions be made effective as soon as possible. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR 722.562 shall become effective upon the filing of this document with the Director, Office of the Federal Register, with respect to the 1978 crop of ELS cotton. The material previously appearing in this section as "Subpart—1977 crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas" remains in full force and effect as to the crop to which it was applicable.

Accordingly, 7 CFR 722.562 is amended to read as follows:

§ 722.562 State reserves and county allotments for the 1978 crop of extra long staple cotton.

(a) *State reserves.* The State reserves for each State shall be established and allocated among uses for the 1978 crop of extra long staple cotton pursuant to § 722.508. It is hereby determined that no State reserve is required for abnormal conditions, trends, inequities and hardships, or small farms.

The amount of the State reserve held in each State and the amount of allotment in the State productivity pool resulting from productivity adjustments under § 722.529 (c) and (d) is available for inspection at each State ASCS office.

(b) *County Allotments.* County allotments are established for the 1978 crop of extra long staple cotton in accordance with § 722.509. The amount of the State allotment apportioned to counties is available for inspection at the respective State and county ASCS offices.

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375.)

NOTE.—The Agricultural Stabilization and Conservation Service 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.

Signed at Washington, D.C. on November 25, 1977.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-34302 Filed 11-25-77;1:24 pm]

[3410-02]

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

PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Free and Restricted Percentages for 1977-78 Marketing Policy Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes free and restricted percentages for inshell filberts for the marketing policy year beginning August 1, 1977. The action is taken under the marketing order for filberts grown in Oregon and Washington to promote orderly marketing conditions.

EFFECTIVE DATES: August 1, 1977, through July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On October 14, 1977, notice was pub-

lished in the FEDERAL REGISTER (42 FR 55245) inviting written comments, not later than November 18, 1977, on the proposed establishment of free and restricted percentages of 58 percent and 42 percent, respectively, but none was received. The percentages were recommended by the Filbert Control Board, which is established under the marketing agreement, and Order No. 982, both as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Filbert Control Board estimated for the 1977–78 marketing policy year, a 1977 merchantable production (available supply subject to regulation) of 9,350 tons, and an inshell requirement (net demand) of 5,378 tons. It then recommended a free percentage of 58 percent—the ratio of the inshell requirement to the merchantable production—and, a restricted percentage of 42 percent—100 percent minus the free percentage.

The free percentage prescribes that portion of the total merchantable supply which may be handled as inshell filberts. The restricted percentage prescribes that portion of the total merchantable supply which must be withheld from such handling, but may be shelled (for domestic or foreign consumption), exported, or disposed of in noncompetitive outlets.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board, and other available information, it is found that to establish this rule will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this rule until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). The order requires that free and restricted percentages for a particular marketing policy year shall apply to all inshell filberts handled during that year, and this rule automatically applies to all such filberts beginning August 1, 1977.

The free and restricted percentages follow:

§ 989.227 Free and restricted percentages for merchantable filberts during the 1977–78 marketing policy year.

The free and restricted percentages for the marketing policy year beginning August 1, 1977, shall be 58 percent and 42 percent, respectively.

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

Dated: November 23, 1977

D. S. KURYLOSKI,
Acting Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77-34164 Filed 11-28-77;8:45 am]

[3410-02]

PART 984—WALNUTS GROWN IN CALIFORNIA

Free and Reserve Percentages for 1977–78 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes free and reserve percentages for California walnuts for the 1977–78 marketing year to allocate this year's merchantable production between domestic and export markets. The estimate of 1977 merchantable walnut production is in excess of domestic needs. The purpose of this rule is to promote the orderly marketing of California walnuts during the year by permitting the industry to meet the needs of its domestic markets while setting aside the excess, chiefly for export.

EFFECTIVE DATES: August 1, 1977, through July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–6393.

SUPPLEMENTARY INFORMATION: On October 31, 1977, notice was published in the FEDERAL REGISTER (42 FR 56955) inviting written comments, not later than November 18, 1977, on the proposed establishment of free and reserve percentages of 75 percent and 25 percent, respectively, but none was received. The percentages were recommended by the Walnut Marketing Board, which locally administers the marketing agreement and order, under the marketing agreement, and Order No. 984, both as amended (7 CFR Part 984), regulating the handling of walnuts grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Board's recommendation was based on estimates for 1977–78 of supply, and inshell and shelled trade demands adjusted for handler carryover. The total 1977–78 supply subject to regulation is estimated at 185.6 million pounds kernelweight. Inshell and shelled trade demands adjusted for handler carryover are estimated at 31.5 and 109.8 million pounds kernelweight, or a total adjusted trade demand of 141.3 million pounds.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, and other available information, it is found that establishment of free and reserve percentages under the order, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this rule until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). The relevant provisions of the order require that the free and reserve percentages established for a particular marketing year shall apply to all walnuts certified as merchantable from the beginning of the marketing year. The 1977–78 marketing year began August 1, 1977.

The free and reserve percentages follow:

§ 984.224 Free and reserve percentages for California walnuts during the 1977–78 marketing year.

The free and reserve percentages for California walnuts during the marketing year beginning August 1, 1977, shall be 75 percent and 25 percent, respectively.

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

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

Dated: November 23, 1977.

D. S. KURYLOSKI,
Acting Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77-34165 Filed 11-28-77;8:45 am]

[3410-02]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1250—EGG RESEARCH AND PROMOTION

Amendments to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Rule Amendments.

SUMMARY: The first amendment requires egg producers who are collecting handlers to remit assessments on their nest run eggs sold to other collecting handlers in addition to remitting assessments on eggs that they grade, carton, or break. This action facilitates the remittance of assessments to the Egg Board. Another amendment requires that all refund applications be mailed to the Board within 90 days after the end of the calendar month during which the assessment obligation was due and collectable, rather than 90 days after the end of the calendar month during which the assessment obligation was paid. This amendment makes the Rules and Regulations consistent with the Egg Research and Promotion Order and the Egg Research and Consumer Information Act.

EFFECTIVE DATE: November 28, 1977.

FOF FURTHER INFORMATION CONTACT:

William C. Paddock, 202–447–5767.

SUPPLEMENTARY INFORMATION: The proposed amendments to the Rules and Regulations were published in the

FEDERAL REGISTER on September 26, with comments due by October 26, 1977. Two organizations representing egg producers expressed support for the proposed changes. No adverse comments relating to the amendments were received.

The amended paragraphs (a)(2), (a)(3), (a)(4)(b) and (a)(4)(c) of § 1250.516 and the amended paragraph (b) of § 1250.523 read as follows:

§ 1250.516 Collecting handlers and collection.

(a) * * *

(2) A person who buys or receives nest run eggs from a producer and who does not grade, carton, or break such eggs. Such person shall collect the assessment from the producer and remit to the Egg Board on all such eggs, except for which there is a certification of exemption or eggs for which there is a statement indicating that an assessment has already been paid;

(3) Except as otherwise provided in paragraph (a)(4) of this section, a producer who grades, cartons, or breaks eggs of his own production shall be responsible for remitting the assessment to the Board on all eggs produced. This would include the eggs which he grades, cartons, or breaks as well as the nest run eggs which are graded, cartoned, or broken by another handler. Such a producer who remits the assessment on nest run eggs to the Board shall provide the handler specified in paragraph (a)(1) or (2) of this section with a written statement that the assessment has already been paid on the nest run eggs; or

* * * * *

(b) Producer grades, cartons, breaks, or otherwise prepares for marketing a portion of the eggs of his own production and delivers the remaining portion of his nest run eggs to a shell egg packer or breaker—the producer is the collecting handler and shall remit the assessment on his total production to the Board; (c) producer sells all or a portion of his eggs in nest run form to a handler who is not a shell egg packer or breaker—the handler is responsible for collecting the assessment and remitting it to the Egg Board except for eggs covered by a statement indicating that an assessment has already been paid.

* * * * *

§ 1250.523 Procedure for obtaining refunds.

(b) Every refund application must be mailed to the Board within 90 days after the end of the calendar month during which the assessment obligation was due and collectable.

* * * * *

Dated: November 21, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-34166 Filed 11-28-77;8:45 am]

[3410-34]

Title 9—Animals and Animal Products

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

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

PART 73—SCABIES IN CATTLE

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Stanton County in Kansas and a portion of Phelps County in Nebraska because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed November 3, 1977, in Stanton County and on November 8, 1977, in Phelps County. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested areas.

EFFECTIVE DATE: November 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goats, Equine and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Stanton County in Kansas and a portion of Phelps County in Nebraska because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

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

In § 73.1a, in paragraph (b) relating to the State of Nebraska a new paragraph (2) relating to Phelps County and in paragraph (d) relating to the State of Kansas a new paragraph (4) relating to Stanton County are added to read:

§ 73.1a Notice of quarantine.

* * * * *

(b) * * *

(2) That portion of Phelps County comprised of secs. 29, 30, 31, and 32, T. 22 S., R. 55.

(d) * * *

(4) That portion of Stanton County comprised of sec. 13, T. 28, R. 48.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464 28477; 38 FR 19141.)

The amendments imposed certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 23d day of November 1977.

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

E. A. SCHILE,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-34261 Filed 11-28-77;8:45 am]

[3410-34]

PART 73—SCABIES IN CATTLE

Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose this amendment is to quarantine a portion of Olmsted County in Minnesota because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed November 16, 1977, in Olmsted County. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested area.

EFFECTIVE DATE: November 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goats, Equine and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, Md. 20782, (301) 436-8322.

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of Olmsted County in Minnesota because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

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

In § 73.1a, a new paragraph (h) relating to the State of Minnesota is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(h) Notice is hereby given that cattle in a certain portion of the State of Minnesota are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

That portion of Olmsted County comprised of secs. 1 and 12, Haverhill township; sec. 7, Viola township.

Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 22d day of November 1977.

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

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc.77–34262 Filed 11–28–77;8:45 am]

[3128–01]

Title 10—Energy

CHAPTER X—DEPARTMENT OF ENERGY (GENERAL PROVISIONS)

PART 1001—SEPARATION OF REGULATORY AND ENFORCEMENT FUNCTIONS WITHIN THE ECONOMIC REGULATORY ADMINISTRATION

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: Notice is hereby given of the adoption by the Economic Regulatory Administration (ERA), Department of Energy (DOE), of a rule to provide for the separation of regulatory and enforcement functions performed by ERA, pursuant to Section 206(a) of the Department of Energy Organization Act, Pub. L. 95–91 (DOE Act).

EFFECTIVE DATE: October 1, 1977; Written comments by December 19, 1977, with possible revisions to follow.

ADDRESSES: Written comments to: Department of Energy, Executive Communications, Room 3317, Federal Building, Box QI, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Nancy E. Williams, Department of Energy, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461, 202–566–2454.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

The Department of Energy was established by the DOE Act, which Act was made effective October 1, 1977, by Executive Order No. 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977). The Act consolidated in DOE various energy functions previously performed by several federal agencies, so that federal energy policy and programs may be effectively coordinated and administered. The Act transfers to, and vests in, the Department and the independent collegial body within the Department, the Federal Energy Regulatory Commission, the functions of the former Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission, and certain functions previously performed by the Interstate Commerce Commission, the Department of the Interior, the Department of Housing and Urban Development, the Department of the Navy, the Department of Commerce, and the Naval Reactor and Military Application Programs established under the Atomic Energy Act of 1954.

Section 206(a) of the DOE Act provides for the establishment of an Economic Regulatory Administration within the Department, to be headed by an Administrator. Section 206(b) of the Act provides that the ERA shall perform such functions as the Secretary of Energy determines to be appropriate:

> Consistent with the provisions of title IV, the Secretary shall utilize the Economic Regulatory Administration to administer such functions as he may consider appropriate.

In order to implement the provisions of Section 206 of the Act, and pursuant to the general power of delegation vested in the Secretary by Section 642 of the DOE Act, the Secretary on October 1, 1977, delegated to the Administrator of ERA the authority to administer several functions transferred to and vested in the Secretary by the DOE Act. (See Appendix attached hereto, DOE Delegation Order No. 0204–4.)

In addition to delegating the authority to administer a number of functions, the Secretary in his Delegation Order directed the Administrator of ERA to provide by rule for a separation of the regulatory and enforcement functions of the ERA, as is required under the provisions of Section 206(a) of the DOE Act.

The relevant provision of Section 206 (a) states:

> The Secretary shall by rule provide for a separation of regulatory and enforcement functions assigned to, or vested in, the Administration.

On its face, Section 206(a) addresses only two of the categories of functions assigned to ERA; it does not speak to other categories, such as adjudicative decision-making, coordination, or intervention.

The Committee of Conference on the DOE Act included in the Joint Explanatory Statement which accompanied the Act the following provision to elucidate the meaning of the separation provision in Section 206(a):

> The Conferees state that the purpose of this language is to require that separate offices within the ERA be responsible for the preparation of regulations and for the bringing of individual enforcement actions.

ERA believes that the spirit of Section 206(a) requires a distinct and separately managed effort to enforce the laws and regulations, whatever they may be. Responsibilities for such enforcement may not be shared with offices responsible for preparing regulations, including amendments to the very regulations being enforced. Section 206(a) requires separation of ultimate responsibility. It does not preclude the responsible offices from seeking relevant information from other offices.

Pursuant to the directive contained in his delegation of authority, the Administrator of ERA hereby adopts the rule set forth below to provide for the separation of regulatory and enforcement functions within ERA.

II. RULE ADOPTED

In accord with the directive described above, the rule set forth below provides that the regulation preparation function and the enforcement function within the jurisdiction of the Administrator of ERA will be carried out by separate entities within ERA. The regulation preparation function performed by ERA will be the responsibility of the office of the Assistant Administrator for Regulations and Emergency Planning.

The rule provides that the enforcement functions performed by ERA will be the responsibility of the office of the Assistant Administrator for Enforcement and, with respect to major oil refiners, the office of the Special Counsel for Compliance. Furthermore, no officer or employee of the office of the Assistant Administrator for Regulations and Emergency Planning shall have authority to make or concur in any decision by ERA to institute an individual investigation related to enforcement or adjudicate an individual enforcement proceeding.

III. COMMENT PROCEDURE

Interested persons are invited to submit views, data or arguments with re-

spect to the rule set forth in this notice. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the outside envelope with the designation "Rule for Separation of Regulatory and Enforcement Functions within the Economic Regulatory Administration." Fifteen copies should be submitted. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and in the ERA, Room B-120, 2000 M Street NW., between the hours of 1 p.m. and 5 p.m., Monday through Friday.

IV. OTHER PROCEDURAL CONSIDERATIONS

The rule set forth below is being adopted, effective retroactively to October 1, 1977, since it has been followed in practice since that date. Pursuant to the direction contained in the Delegation Order described above from the Secretary of Energy to the Administrator of ERA, the regulatory and enforcement functions of the ERA were separated as of the activation date of DOE and have in fact been performed since that date by separate offices within ERA. Even though ERA adopts the rule effective October 1, 1977, ERA invites comments regarding the rule until December 19, 1977. Thereupon, ERA will evaluate the rule in light of the comments received and may amend the rule as appropriate.

Further, if comments received show that a substantial issue of fact or law exists with respect to the rule, or that the rule is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, ERA shall provide an opportunity for oral presentation of views, data, and arguments.

NOTE.—The DOE 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.

(Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Chapter X, Department of Energy (General Provisions) is amended by adding Part 1001, consisting at this time of § 1001.1 as set forth below.

Issued in Washington, D.C., November 22, 1977.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration, Department of Energy.

§ 1001.1 Separation of Regulatory and Enforcement Functions Within the Economic Regulatory Administration.

In accordance with Section 206(a) of the Department of Energy Organization Act, Pub. L. 95-91, and the October 1, 1977 delegation of the Secretary of Energy to the Administrator of the Economic Regulatory Administration (ERA), the regulation preparation and enforcement functions delegated to the Administrator of ERA shall be performed by separate entities of the ERA. The office of the Assistant Administrator for Regulations and Emergency Planning shall be responsible for the preparation of regulations. The office of the Assistant Administrator for Enforecement, including the offices of the Regional Directors of Enforcement, and the office of the Special Counsel for Compliance, shall be responsible for the bringing of individual enforcement actions. No officer or member of the office of the Assistant Administrator for Regulations and Emergency Planning shall have authority to make or concur in any decision by ERA to institute an individual enforcement investigation or adjudicate an individual enforcement proceeding.

(Department of Energy Organization Act, Pub. L. 95-91; EO 12009, 42 FR 46267.)

APPENDIX—DEPARTMENT OF ENERGY DELEGATION ORDER NO. 0204-4

TO THE ADMINISTRATOR OF THE ECONOMIC REGULATORY ADMINISTRATION

Pursuant to the authority vested in me as Secretary of Energy ("Secretary") and by the Department of Energy Organization Act (Pub. L. 95-91) (the "DOE Act"), the Administrator of the Economic Regulatory Administration ("ERA") is hereby directed to provide by rule for a separation of the regulatory and enforcement functions of the Economic Regulatory Administration, in accordance with Section 206(a) of the DOE Act; and

There is hereby delegated to the Administrator of ERA the authority to adopt rules, issue orders, licenses and allocations, collect fees, and take such other action as may be necessary and appropriate to administer the following functions:

1. The allocation and pricing of crude oil, residual fuel oil, and refined petroleum products, pursuant to the provisions of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), as amended;

2. The importation of crude oil, unfinished oils and finished products, pursuant to the provisions of the Trade Expansion Act of 1962 (Pub. L. 87-794) and Proclamation No. 3279, as amended;

3. The prohibition of powerplants and major fuel burning installations from the use, as a primary energy source, of natural gas or petroleum products; requiring that powerplants and major fuel burning installations in the early planning process be designed and constructed so as to be capable of using coal as a primary energy source; and the allocation of coal, pursuant to the provisions of Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319), as amended;

4. The prescription of energy conservation and rationing contingency plans, pursuant to the provisions of Sections 202 and 203 of the Energy Policy and Conservation Act (Pub. L. 94-163), as amended;

5. The development of proposals for improvement of electric utility rate design and advising the Secretary of such proposals for the transmittal thereof to Congress; funding of electric utility rate demonstration projects; and providing financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions, pursuant to the provisions of Title II of the Energy Conservation and Production Act (Pub. L. 94-385), as amended;

6. The exportation and importation of natural gas, pursuant to the provisions of Section 3 of the Natural Gas Act (Pub. L. 688, 75th Cong. 2d Sess.), as amended, and Executive Order No. 10485, except with respect to those pending cases assigned by rule to FERC;

7. The exportation and importation of electric energy, pursuant to the provisions of Section 202(e) of the Federal Power Act (Pub. L. 280, 66th Cong., 2d Sess.), as amended, and Executive Order No. 10485;

8. The establishment and review of priorities for the curtailment of deliveries of natural gas, under the authority of the provisions of Sections 1(b), 4, 5, 7 and 16 of the Natural Gas Act and pursuant to the provisions of Section 402(a)(1)(E) of the DOE Act;

9. The assembly of information with regard to State compacts, proposed and approved, dealing with the conservation, production, transportation or distribution of natural gas; and advising the Secretary with respect to legislation recommended to carry out the purposes of such State compacts and to aid in the conservation, and orderly, equitable and economic production, transportation and distribution of natural gas, pursuant to the provisions of Section 11 of the Natural Gas Act·

10. The establishment and modification of regional districts in the country for the voluntary interconnection and coordination of facilities for the generation, transmission and sale of electric energy, and the promotion and encouragement of such interconnection and coordination within each such district and between such districts, pursuant to the provisions of Section 202(a) of the Federal Power Act;

11. To order the temporary connections of facilities, during times of war or national emergency, for the generation or transmission of electric energy and such generation, delivery, interchange, or transmission of electric energy as in the Administrator's judgment will best meet the emergency and serve the public interest, pursuant to the provisions of Section 202(c) of the Federal Power Act;

12. To approve or deny applications to make permanent connections for emergency use only by persons engaged in the transmission or sale of electric energy where the applicant is not otherwise subject to the jurisdiction defined by Section 201 of the Federal Power Act, with any public utility that is subject to such jurisdiction, pursuant to the provisions of Section 202(d) of the Federal Power Act;

13. The investigation and determination, upon the Administrator's own motion or the request of any State commission, of the cost of production or transmission of electric energy by means of facilities that are subject to the jurisdiction defined by Section 201 of the Federal Power Act, as the Administrator determines is necessary and appropriate to perform his functions, pursuant to the provisions of Section 206(b) of the Federal Power Act;

14. The conduct of investigations regarding the generation, transmission, distribution and sale of electric energy, however produced, throughout the United States and its possessions, including the generation, transmission, distribution and sale of electric energy by any agency, authority or instrumentality of the United States, or of any State or municipality or other political subdivision of a State, and advising the Secretary of the results of such investigations for his report thereof to Congress, as the Administrator determines is necessary and appropriate to perform his functions, pursuant to Section 311 of the Federal Power Act;

15. Exercise of the authority under the acts listed below to confirm and approve power or transmission rates of federal power marketing agencies, and exercise of the cost-allocation authority contained in Section 7 of the Bonneville Project Act cited below: Section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), the Bonneville Project Act of 1937 (Pub. L. 329, 75th Cong., 1st Sess.), as amended; the Federal Columbia River Transmission System Act of 1974 (Pub. L. 93-454), the Eklutna Project Act of 1950, as amended, (64 Stat. 382); the Act of June 18, 1954 (68 Stat. 255), as amended by the Act of December 23, 1963 (77 Stat. 475) (Falcon and Amistad Dams);

16. The final decision as to rate adjustments pursuant to Section 10 of the rules entitled "Procedures for Public Participation in General Adjustments in Power Rates", set forth at 40 F.R. 34431-32 (August 15, 1975), which were promulgated pursuant to the Reclamation Act of 1902, as amended and supplemented by subsequent enactments, particularly Section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and the acts specifically applicable to the project in question;

17. Exercise of the authority under Section 11 of the Clayton Act (15 U.S.C. § 21) as related to the transportation of oil by pipeline, pursuant to the provisions of Section 306 of the DOE Act;

18. To propose rules, regulations and statements of policy of general applicability to the Federal Energy Regulatory Commission ("FERC") with respect to any function within the jurisdiction of FERC under Section 402 of the DOE Act and set reasonable time limits for the completion of action by FERC on any such proposal, pursuant to the provisions of Section 403(a) of the DOE Act;

19. To intervene or otherwise participate in any proceeding before FERC, pursuant to the provisions of Section 405 of the DOE Act;

20. To intervene or otherwise participate on behalf of the Secretary in any proceeding before any federal or state agency or commission whenever it is determined that the interests of the Secretary should be represented in such proceeding;

21. To issue Notices of Probable Violation (NOPV) when there is reason to believe that a violation of any regulation or order having the effect of a rule promulgated pursuant to the Emergency Petroleum Allocation Act of 1973 has occurred, is continuing or is about to occur, and conduct proceedings incidental thereto;

22. To issue proposed remedial orders and remedial orders (including matters involving remedial orders for immediate compliance and orders of disallowance) for the violation of any regulation or order having the effect of a rule promulgated pursuant to the Emergency Petroleum Allocation Act of 1973, advise FERC as to any such remedial order that is contested, and set reasonable time limits for FERC to complete action on any such proceeding referred to it, pursuant to the provisions of Section 503 of the DOE Act;

23. To issue appeal decisions with respect to remedial orders (including remedial orders for immediate compliance and orders of disallowance) relating to NOPV's that were issued by the Federal Energy Administration prior to October 1, 1977;

24. To suspend or revoke allocations and licenses, and conduct proceedings incidental thereto, issued pursuant to the functions described in paragraph 2;

25. To provide for the making of adjustments to any rule, regulation or order having the effect of a rule, issued under the statutory authorities vested in and transferred to the Secretary pursuant to the DOE Act and which are not delegated by the Secretary to the Federal Energy Regulatory Commission, consistent with the other purposes of the relevant statutory authority, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and to provide by rule for procedures for any person to seek an interpretation, modification or recission of, exception to, or exemption from any rule, regulation or order having the effect of a rule issued under such statutory authorities, pursuant to the provisions of Section 504(a) of the DOE Act;

26. To initiate and conduct investigations, when necessary and incidental to the exercise of any authority delegated herein, in response to complaints or other information; conduct conferences, hearings or public hearings with respect to the functions delegated hereby; administer oaths and affirmations to any person, and suspend or disqualify any person appearing at such conference or hearing; issue subpoenas; make payment, if appropriate, of witness fees and mileage to any witness appearing in response to such subpoenas; and take such other action as may be necessary and appropriate to assure and determine the extent of compliance with DOE rules and regulations described herein and any order having the effect of a rule issued thereunder;

27. To take such other action as the Secretary or his authorized delegates may, from time to time, direct or authorize.

The authority delegated to the Administrator of ERA may be further delegated, in whole or in part, as may be appropriate, *Provided*, That the Administrator shall not further delegate, in whole or in part, the authority delegated to him to propose or adopt rules.

The Administrator of ERA shall consult with the Administrator of the Energy Information Administration ("EIA") with respect to the exercise of functions under Paragraphs 13 and 14, as EIA considers appropriate.

In exercising the authority delegated by this Order or as redelegated pursuant thereto, the delegate(s) shall be governed by the rules and regulations of DOE and the policies and procedures prescribed by the Secretary or his delegate.

All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or superseded.

This Order is effective October 1, 1977.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc.77-34260 Filed 11-25-77;8:57 am]

[4610-33]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 1—INVESTMENT SECURITIES REGULATION

Requests for Rulings

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This amendment provides additional procedures by which a national bank may request the Comptroller to rule on the applicability of Federal law or regulation to any security which it holds, or desires to deal in, underwrite, or purchase for its own account. The new procedures require that such requests be submitted to the Deputy Comptroller for Banking Operations allowing at least three weeks for processing.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard V. Fitzgerald, Acting Director, Legal Advisory Services Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1880.

SUPPLEMENTARY INFORMATION: 12 CFR 1.9 provides that a national bank may request the Comptroller to rule on the applicability of 12 CFR Part 1 or paragraph Seventh of 12 U.S.C. 24 to any security which it holds, or desires to deal in, underwrite, or purchase for its own account. This amendment revises § 1.9 to incorporate two minor procedural requirements regarding the submission of such requests. The amendment requires: (1) that the requests be submitted in writing to the Deputy Comptroller for Banking Operations and (2) that if the requesting bank desires the ruling prior to a particular date, the request must have been received at least three weeks prior to such date.

DRAFTING INFORMATION

The principal drafter of this document was Richard V. Fitzgerald, Acting Director, Legal Advisory Services Division.

ADOPTION OF AMENDMENT

12 CFR Part 1 is hereby amended by revising § 1.9 to read as follows:

§ 1.9 Requests for rulings.

(a) Any bank may request the Comptroller of the Currency to rule on the application of this part, or paragraph Seventh of 12 U.S.C. 24, to any security which it holds, or desires to purchase for its own account as an investment security; or which it holds, or desires to deal in, underwrite, purchase, hold or sell as a security of Type I or II.

(b) Such a request for a ruling should be supported by (1) information sufficient to enable the Comptroller to make the necessary determination and (2) the bank's appraisal of the information furnished. The request must be submitted in writing to the Deputy Comptroller for Banking Operations, Office of the Comptroller of the Currency, Washington, D.C. 20219. If the requesting bank desires the ruling prior to a particular date, the request must be received at least three weeks prior to such date.

Dated: November 14, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-34242 Filed 11-28-77;8:45 am]

[6714–01]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULE OF PRACTICE

PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

Legal Fees and Other Expenses; Statement of Policy

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") amends its regulations setting forth the conditions precedent to approval of a branch application pursuant to authority delegated by the Board of Directors (the "Board"). This amendment is necessitated by the adoption of a revised policy statement regarding legal fees and other expenses. The purpose of the amendment is to make the regulations consistent with this revised policy statement.

EFFECTIVE DATE: This amendment will take effect immediately.

ADDRESS: Alan R. Miller, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT:

Margaret M. Olsen, Legal Division, Federal Deposit Insurance Corp., Washington, D.C. 20429, 202–389–4433.

SUPPLEMENTARY INFORMATION: Section 303.12 of the rules and regulations of the FDIC (12 CFR § 303.12) sets forth the conditions under which the Board has reserved the right to act on certain applications which otherwise could have been acted on by the Division of Bank Supervision or, in turn, the Regional Director, under delegated authority. In particular, under § 303.12(c)(3) authority is not delegated unless legal fees and other expenses incurred in connection with a proposed branch are consistent with the policy statement adopted by the Board on August 25, 1972. (Under the August 25, 1972 statement, legal fees and other expenses over a certain dollar amount were to be reviewed as to their reasonableness.) This statement of policy was revised by the Board on October 25, 1977 (42 FR 56979). (Under the revised statement of policy the reasonableness of legal fees and other expenses is determined with reference to enumerated factors.) This amendment, therefore, changes the reference in the regulation to the statement of policy which is to be considered in the determination whether a branch application may be approved under delegated authority. The amendment is effective immediately.

This amendment is authorized by sections 18(d) and 9 (Seventh and Tenth) of the Federal Deposit Insurance Act. (12 U.S.C. § 1828(d)) and 12 U.S.C. § 1819 (Seventh and Tenth)).

Because this amendment relates merely to the internal practices and procedures of the FDIC, the Board has determined that, under § 302.6 of the rules and regulations of the FDIC (12 CFR § 302.6), this amendment may be promulgated without notice, public participation and a deferred effective date.

Section 303.12 is amended to read as follows:

§ 303.12 **Applications where authority is not delegated.**

* * * * *

(c) * * * (3) Legal fees and other expenses incurred in connection with the proposed branch are determined to be reasonable under the standards set by the Board of Directors.[6]

* * * * *

By order of the Board of Directors, November 22, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-34217 Filed 11-28-77;8:45 am]

[6714–01]

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Amendment of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation amends Part 339 to conform its provisions with the requirements of section 703(a) of the Housing and Community Development Act of 1977 (Pub. L. 95–128). The amendment: (1) Removes the provision under § 339.2 which prohibits insured State nonmember banks from making, increasing, extending or renewing any loan secured by improved real estate or a mobile home located or to be located in a designated flood hazard area where the community is not participating in the National Flood Insurance Program; and (2) requires insured State nonmember banks, as a condition of making, increasing, extending, or renewing loans secured by property located or to be located in designated special flood hazard areas, to notify the borrower of the property securing the loan whether Federal disaster relief assistance will be available for the property if the property is damaged by a flood in a federally-declared disaster.

DATE: Effective November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerry L. Langley, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, 202–389–4237.

SUPPLEMENTARY INFORMATION: Section 703(a) of the Housing and Community Development Act of 1977 (the "Act") changes the National Flood Insurance Program by amending section 202(b) of the Flood Disaster Protection Act of 1973. Prior to its amendment, section 202(b) required FDIC to issue regulations which, with certain exceptions, prohibited insured State nonmember banks from making any loan secured by improved real estate or a mobile home located or to be located in a designated flood hazard area unless the community in which the area is situated was participating in the National Flood Insurance Program. Section 339.2 of FDIC's regulations was issued to impose the prohibition. Now, section 703(a) of the Act has removed this prohibition. Further, it requires FDIC to issue regulations which require insured State nonmember banks, as a condition of making, increasing, extending or renewing any loan secured by improved real estate or a mobile home located or to be located in a flood hazard area, to notify the purchaser or lessee of such property whether Federal disaster relief assistance will be available for the property if the property is damaged by a flood in a federally declared disaster.

Section 703(a) of the Act does not affect section 102(b) of the Flood Disaster Protection Act of 1973 which provides that FDIC shall by regulation direct insured State nonmember banks not to make any loan secured by improved real estate or a mobile home located or to be located in a flood hazard area "in which flood insurance has been made available under [the National Flood Insurance Act of 1968]" unless the building or mobile home or personal property securing such loan is covered by flood insurance. Accordingly, § 339.1 of FDIC rules and regulations (12 CFR § 339.1) which implements section 102(b) of the Flood Disaster Protection Act of 1973 is still in effect. Thus, when federal flood insurance is available for a community in a designated flood hazard area (i.e., when a community is participating in the National Flood Insurance Program), an insured State nonmember bank still cannot make loans secured by improved real estate or mobile homes located or to be located in the community unless the property securing the loans is covered by flood insurance.

Since the present changes to FDIC's rules and regulations are necessitated by Pub. L. 95–128, the Board of Directors of FDIC has determined, under § 302.6 of FDIC's rules and regulations (12 CFR § 302.6), that notice of and public participation in this rulemaking is unnecessary and that good cause exists for waiver of the 30-day deferral of the amendment's effective date.

Effective immediately, Part 339 of 12 CFR, Chapter III is amended by (1) revoking and reserving § 339.2; and (2) revising § 339.5 to include the provision regarding notice to borrowers of the availability of Federal disaster relief assistance. Part 339 is amended to read:

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[6] A copy of FDIC's Statement of Policy on Legal Fees and Other Expenses Incident to Applications for Insurance and Consent to Establish Branches is provided with all application forms for the consent of the FDIC to establish branches.

§ 339.2 [Reserved]

(1) Section 339.2 is revoked and reserved.

(2) Section 339.5 is revised to read as follows:

§ 339.5 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

(a) *Notice Requirement.* Each insured State nonmember bank shall, as a condition of making, increasing, extending or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, mail or deliver as soon as feasible but not less than 10 days in advance of closing of the transaction (or not later than the bank's commitment, if any, if the period between commitment and closing is less than 10 days) a written notice to the borrower stating: (1) that the property securing the loan is or will be located in an area so identified (or in lieu of such notification, the bank may obtain satisfactory written assurance from a seller or lessor stating that such seller or lessor has notified the borrower, prior to the execution of any agreement for sale or lease, that the property securing the loan is or will be located in an area so identified) and (2) whether Federal disaster relief assistance will be available for the property in the event the property is damaged by a flood in a federally declared disaster. Each insured State nonmember bank shall require the borrower, prior to closing, to provide the bank with a written acknowledgement that the borrower realizes the property securing the loan is or will be located in an area so identified and that the borrower has received the above-required notice regarding Federal disaster relief assistance.

(b) *Sample Notices.* An insured State nonmember bank providing written notice containing the language presented below within the time limits prescribed in paragraph (a) will be considered to be in compliance with the notice requirements of paragraph (a).

(1) *Notice to Borrower of Special Flood Hazard Area.* Notice is hereby given to _____ that the improved real estate or mobile home described in the attached instrument is or will be located in an area designated by the Secretary of the Department of Housing and Urban Development as a special flood hazard area. This area is delineated on _____'s Flood Insurance Rate Map (FIRM) or, if the FIRM is unavailable, on the Flood Hazard Boundary Map (FHBM). This area has a 1 percent chance of being flooded within any given year. The risk of exceeding the 1 percent chance increases with time periods longer than one year. For example, during the life of a 30-year mortgage, a structure located in a special flood hazard area has a 26 percent chance of being flooded.

(2) *Notice to Borrower about Federal Disaster Relief Assistance.* (i) *Notice in participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is now participating in the National Flood Insurance Program. In the event such property is damaged by flooding in a federally declared disaster, federal disaster relief assistance may be available. However, such assistance will be unavailable if your community is not participating in the National Flood Insurance Program at the time the assistance would be approved. This assistance, usually in the form of a loan with a favorable interest rate, may be available for damages incurred in excess of your flood insurance.

(ii) *Notice in nonparticipating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is not participating in the National Flood Insurance Program. This means that such property is not eligible for federal flood insurance. In the event the property is damaged by flooding in a federally declared disaster, federal disaster relief assistance will be unavailable. Such assistance will be available only if your community is participating in the National Flood Insurance Program at the time the assistance would be approved.

By order of the Board of Directors, November 22, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-34216 Filed 11-28-77;8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Statement of Policy Concerning a Pilot Program to Permit Licensees to Specialize in the Financing of Movie Production and Distribution

AGENCY: Small Business Administration.

ACTION: Statement of General Policy.

SUMMARY: SBA has received a number of inquiries and license applications relating to proposed small business investment companies (SBICs) which would be organized to specialize in the financing of production and distribution of motion pictures (classified respectively under the Standard Industrial Classification Manual prepared by the Office of Management and Budget as Industry Nos. 7813, 7814, 7823, and 7824). SBA has adopted a general policy to undertake a Pilot Program to test the feasibility of licensing SBICs to specialize in such financing. The Pilot Program will provide appropriate safeguards to assure SBA-approved investment standards and practices, full compliance with all applicable regulations and special conditions applicable to such specialized Licensees.

DATES: Written comments on the Statement of General Policy may be submitted, in triplicate, on or before December 29, 1977.

SBICs will be selected from among license applications (1) pending on November 29, 1977, or (2) filed on or before December 29, 1977.

ADDRESS: Comments to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6584.

SUPPLEMENTARY INFORMATION: This Notice is published in accordance with section 3 of the Administrative Procedure Act [5 U.S.C. 552(a)(1)(D)] requiring Federal agencies to publish in the FEDERAL REGISTER for the guidance of the public "* * * statements of general policy * * * formulated and adopted by the agency." Although exempt by 5 U.S.C. 553(b), (A), and 5 U.S.C. 553(d)(2) from the public participation-comment procedures, SBA invites written comment for its consideration.

STATEMENT OF GENERAL POLICY: PILOT PROGRAM TO TEST THE FEASIBILITY OF LICENSEES SPECIALIZING IN THE FINANCING OF MOVIE PRODUCTION AND DISTRIBUTION

SBA has received numerous inquiries and several license applications for proposed SBICs which would specialize in the financing of movie production and distribution. Although the Small Business Investment Act does not prohibit the licensing of SBICs for such purposes, it has become apparent to SBA that the licensing of SBICs to specialize in such financing raises several major issues of public policy for the Agency. These policy issues include such matters as: the actual impact the financing would have on the development of independent small business participation in the field of movie production and distribution; the validity of employing Government leverage funds in a specialized field of endeavor generally considered to have high risk attributes; the effective risk reduction techniques that might be applied to such special-purpose SBICs; the SBIC program budgetary impact which might result from such specialization; and the assurance of independence of operation on the part of the portfolio small firms.

In order to resolve these policy issues, SBA has determined to undertake a Pilot Program for a minimum period of three (3) years, to test the feasibility of SBICs specializing in the field of movie production and distribution.

The Pilot Program will apply to "movie-specialist" SBICs, defined as those SBICs having more than one-third of their portfolio (as of the close of any full fiscal year) invested in the financing of movie production and distribution. A limited number of such specialized SBICs (currently anticipated not to exceed six) will be licensed under the Pilot Program, and certain restrictions will be placed on the aggregate levels of SBA-leverage these SBICs may draw down. SBICs will be selected from among

license applications (1) pending on November 29, 1977, or (2) filed on or before December 29, 1977, on the basis of experience, management capability, financial soundness, economic feasibility, probability of success, and similar factors, pursuant to Section 301 of the Small Business Investment Act [15 U.S.C. 681]. Maximum leverage available to Pilot SBICs (including Section 301(d) licensees) will be limited to 3:1 under Section 303 of the Act; and annualized ceilings on the aggregate levels of leverage available to Pilot SBICs will be established.

In addition, participating Pilot SBICs will be subject to special conditions related to the following: SBA-approved investment practices and risk reduction standards; preservation of the independence of the portfolio concern; and restrictions against production of X-rated films and films of a political or religious nature. Special provisions for SBICs organized as limited partnerships will be prescribed. Pilot SBICs will be required to enter into an Agreement with SBA pursuant to § 107.1008 of the SBIC Regulations incorporating guidelines and safeguards which will be relied on to achieve the foregoing objectives; for example, (1) not more than 50 percent of the financing of any single film may be undertaken by one or more Pilot SBICs without prior SBA approval; (2) not more than 10 percent of the investment in any one film may be in pre-production financings; (3) funds committed to film production financings must be protected by insurance coverage standard in the film industry (for example, catastrophic loss); (4) where the SBIC's capital impairment reaches 25 percent of Private Capital, additional film investments will be subject to prior SBA approval, and restrictions will be placed on salaries, fees, and other expenditures; (5) borrowings from outside sources senior to SBA's creditor-position will require prior SBA approval; (6) Pilot SBICs organized as limited partnerships must furnish an IRS ruling of partnership classification before obtaining SBA leverage; (7) tax credits generated by partnership SBIC investments must be applied first to taxable income of the portfolio company before being passed through to the SBIC; (8) partnership SBICs must include individual general partners subject to personal liability; (9) Pilot SBICs will be prohibited from making any investments relating to the production or distribution of X-rated films or films of a political or religious nature; and (10) other existing credit and regulatory standards applicable to all licensees will also apply to Pilot SBICs.

The Agreement incorporating standards for Pilot SBIC operations will also include specific criteria for fair investment and profit-sharing practices (for example, pro rata, non-preferential sharing of profits and losses) as well as assurance that the portfolio enterprise will have freedom of action as an independent small concern, without tying, reciprocal, or other restrictive arrangements, for example with major film production or distribution companies. Prior to licensing, each Pilot SBIC will be required to submit to SBA prototype financing documents to be utilized, showing flow of funds to all parties, including Associates of the SBIC. Prior SBA approval will be required for any material deviation from the approved prototype financings, and from the foregoing criteria.

Should SBA decide, in its discretion, to terminate the Pilot Program as a whole, or the participation of any single Pilot SBIC, such termination will be accomplished by:

(a) Settlement Agreement under which the SBIC would acknowledge SBA's nonliability for alleged damages due to termination, would cease to make new investments, and would place existing assets in liquidation, as a condition precedent to repayment of SBA leverage and license surrender; or

(b) Agreement under which the Pilot SBIC would continue to operate as a non-specialist SBIC, and would transfer its film assets to a wholly-owned liquidating subsidiary.

Progress of the Pilot Program will be monitored closely by SBA with the assistance of consultants expert in film production and distribution. The working group will conduct periodic reviews and make recommendations concerning the achievement of Program objectives.

Dated: November 17, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-34199 Filed 11-28-77;8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Docket No. 30928; Reg. ER-1029, Amdt. 5]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Modification of Insurance Requirements

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The rules concerning air taxi insurance are changed to require policies to provide that they may not expire or be canceled by either party until after 10 days' notice by the insurer to the Board. The change initiated by the Board is designed to ensure that there will be no break in coverage that would leave the public unprotected.

DATES: Effective date: February 20, 1978. Adopted date: November 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of General Counsel, Civil Aeronautics Board, Washington, D.C. 20428; 202-673-5444.

SUPPLEMENTARY INFORMATION: The Board proposed by EDR-326 (42 FR 28150; June 2, 1977) to make two amendments of the existing rules pertaining to liability insurance that must be carried by air taxi operators. One of the proposed amendments would have required the operator to have a policy that covered all his aircraft, except for specifically identified exclusions. The comments received, almost all opposed, raised strong objections to this proposed change, and indicated that the insurance industry would have great reluctance to furnishing that type of insurance. The Board is giving further consideration to that proposal, and no action is being taken on it at this time.

With respect to the other proposed amendment, 14 CFR § 298.45 now requires an insurer of an air taxi operator to notify the Board "within 10 days after receipt of * * * notice of cancellation" by the insured, and to notify the Board 10 days before the expiration date of the policy unless it has been renewed. The Board's experience has been that these required notices have frequently not been given, so that in some cases the policies may cease to be in force, and not be replaced, leaving the public unprotected by liability insurance.

The proposed remedy is drawn from the same section. The first sentence provides that each policy shall specify that it may not be "canceled, withdrawn or modified to reduce the limits of liability, by the insurer, until after 10 days' written notice by the insurer to the Board which 10-day notice shall commence to run from the date such notice is actually received by the Board." The proposal would extend this provision to the other areas where insurers are required to give notice (cancellation by the insured or imminent expiration), so that failure to give the required notice of impending cessation of coverage, for any reason, would result in the policy continuing in force until 10 days after notice is given.

Most of the comments received,[1] virtually all of which were from aircraft operators or insurance representatives, opposed this proposal. One comment, from Imeson Aviation, supported the proposal as in the public interest. Many of the opposing comments, however, appeared to be based on a misunderstanding of the proposal or of the present rules. Some argued in effect that the requirement that insurers notify the Board of cancellation or pending expiration of a policy would place an undue burden on insurers. The requirement would not add

[1] Comments were received from Alpha Aviation Insurance, Association of Independent Aviation Insurers, Avemco Insurance Co., Bryan Air Taxi Service, Commuter Airline Association of America, Corroon and Black, Cutter Flying Service, Burt Dickens and Co., James M. Dodson, Jr., Eagle Aviation, Elliott Flying Service, Lloyd B. Ericsson; Pacific International Underwriters, Don Flower Associates, Harlan Inc. of Pennsylvania, Insurance Co. of North America, Lloyd's Aviation Insurance Underwriters, Mizzou Aviation Co., Mercury Aviation Companies, National Air Transportation Association, L. C. Sides—Insurance, Southeastern Aviation (California), Southeastern Aviation Underwriters, Southeastern Jet Corp., E. L. Stephenson, Suburban Aviation Service, Universal Aviation Underwriters, and West Insurance Managers.

substantially to the burdens of insurers, however, since the rules require such notice now. The change is primarily in the sanction for failure to give the required notice; instead of a cumbersome enforcement proceeding looking to civil or criminal sanctions, which tends to be difficult and expensive to invoke and hence rarely use, the proposal would substitute the simple, effective, and self-executing sanction of keeping the policy in force until the insurer does its duty.

Some comments indicated a belief that the proposal would require insurers to continue their coverage "indefinitely," or until notice is given to them by the insured operator. No such result was proposed or intended. The expiration of a policy on its stated date would not be changed in any way, except in the case where the insurer failed in its duty (already in the present rule) to notify the Board that an expiring policy had not been renewed.

Other comments suggested that the requirement that 10 days' notice be given in the event of cancellation by the insured would amount to "free coverage," and somehow extend the coverage beyond the stated period, possibly causing difficulties with the insurers' reinsurance treaties. It is true that this aspect of the proposal represents a small substantive change in the liabilities of an insurer, in that coverage would extend for 10 days beyond the time when the insured unexpectedly canceled its coverage. The change does not, however, appear to be significant in light of the manner in which insurance policies are administered. An insured person normally pays the premium in advance of the coverage period. "Cancellation" by an insured thus means a notice that no further premiums will be paid, and necessarily comes before the end of the expected period of coverage. Since the insurer expected to furnish coverage for a longer period, the 10 days' coverage during the notice period should not affect its reinsurance. The value of the coverage during the 10-day period after notice would not appear to be a significant cost factor. If it were, it could be avoided by slightly altering the premium payment schedule.

To the extent that the proposal affects notice of expiration, it should have no effect on reinsurance treaties, contrary to some comments, since there would be no requirement of coverage beyond the expiration date except where the insurer fails to give the presently required notice. Where the insurer fails in this duty, which is needed to enable the Board to enforce the insurance requirement effectively, it is proper that the insurer should bear any potential burden.

Several comments argued that the proposal would somehow "increase the risk" to insurers and therefore either cause them to leave the business or to significantly increase the cost of the insurance. This argument, however, does not appear to be supportable. The primary determinant of the "risk" to insurers, upon which premiums are based, is not subjective speculation as to the future, but the actuarial experience of the past: in this case, the frequency and seriousness of aircraft mishaps. Nothing that is done by way of times of insurance coverage, or notice requirements, is likely to materially affect the hazards insured against, which in the end determine the cost to the insurance industry. The only exception to this would be where mishaps would otherwise occur while the operator has failed to have insurance coverage. To the extent that those cases are foreclosed by these amendments, any cost adjustments are entirely justified.

A comment with some factual validity was that in some cases notice is given that a policy is about to expire, then the insured belatedly renews the policy. But such a cost, of giving notice that turns out to be unneeded, appears to be a necessary concomitant of an effective enforcement system. If coverage is to be unbroken, the Board must have the opportunity to inquire into an operator's insurance situation before his policies have already lapsed. In the Board's judgment such a cost is justified in light of the benefits in effective enforcement. Furthermore, this characteristic exists in the present rule, and the costs imposed by the proposal would be only those now saved by violating it.

Several of the comments took the position that the notice provisions were an attempt by the Board to ease its own administrative burden, viewing it simply as a "reminder" that the policy was about to expire, and they argued that the original expiration date on the policy should be sufficient notice to the Board. These commenters apparently failed to grasp the problem created by the present provisions. As the expiration date on an operator's insurance certificate approaches, the Board staff often has no information as to whether the insurance is to be renewed; the requirement that the insurer notify the Board at least 10 days before expiration if a policy has not been renewed has been widely ignored. To contact the operator before the expiration date (as the Board has done experimentally in the past) creates a great deal of unnecessary work and confusion on the part of both the Board and the operators, since the large majority of them in fact do renew their policies. To wait until the date passes, on the other hand, as the Board is presently doing, means that frequently operators will be flying without insurance and leaving the public unprotected, often for several weeks until the matter is resolved. Furthermore, operator irresponsibility is one of the situations the system is intended to guard against, and for it to depend on operator notification would to that extent be self-defeating. That, of course, is the reason for the present requirement of insurer notification, and the effect of the proposal is merely to impose a more effective sanction on insurers who fail to meet that requirement.

One of the intended benefits of the proposal is to reduce paperwork. With an effective scheme of insurer notification in place, the Board plans to eliminate the need for operators to repetitively file certificates of insurance as the old ones expire. The forms issued with this amendment actually do not show expiration dates, and these new certificates, once filed, will be considered valid (since the insurance policies must remain in effect) until notification to the contrary is received. The effective date of this amendment is 90 days after issuance. Each air taxi operator must within that 90 day period obtain conforming policies and submit insurance certificates on the new forms, reflecting these changes.

The comments pointed out an ambiguity in the present rule, with respect to the 10-day notice of expiration required of insurers. No maximum notice period is stated, so that technically, although it would defeat the purpose of the provision, a 1-year policy could contain a "365-day" notice of expiration right in the policy itself. The point of the present requirement, of course, which would be unchanged by the proposal, is to give notice that the insured operator has failed to make a timely renewal. To cure this exploitable flaw in the notice requirement, a sentence is being added to the section, stating that in the case of expiration by the policy's own terms, to be effective the notice of nonrenewal by the insurer must be given not more than 30 days before the expiration date.

Upon consideration of the comments received, the Board finds that the arguments opposing the proposal concerning notice by insurers are insubstantial. Accordingly, in 14 CFR Part 298, Classification and Exemption of Air Taxi Operators, § 298.45 is amended to read as follows:

§ 298.45 Cancellation, withdrawal, modification, expiration, or replacement of insurance coverage.

Each policy of insurance shall specify that it shall remain in force, and may not be replaced, canceled, withdrawn, or in any way modified to exclude any aircraft or reduced the limits of liability or the extent of coverage, by the insurer or the insured, nor expire by its own terms, until 10 days after written notice by the insurer (in the event of replacement, by the retiring insurer), describing the change, to the Board's Bureau of Operating Rights, Washington, D.C. 20428, (or, in the case of air taxi operators in Alaska, to the CAB Field Office, Anchorage, Alaska 99501) which 10-day notice period shall start to run from the date such notice is actually received by the Board. In the case of expiration by the policy's own terms, to be effective under this section a notice of nonrenewal by the insurer must be received not more than 30 days before the expiration date. For purposes of this subpart, a policy will not be considered to have expired if the same insurer renews its coverage without reduction in the extent of coverage or limits of liability, and without a break in coverage, whether or not a new policy

is issued, and notice to the Board is not required in that event.

(Sec. 204, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771, 49 U.S.C. 1324, 1386.)

By the Civil Aeronautics Board: [2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-34211 Filed 11-28-77;8:45 am]

[6320-01]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-123, Amdt. 65]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION: NONHEARING MATTERS

Expansion of Delegated Authority to the Director, Bureau of Operating Rights, the Chief, Passenger and Cargo Rates Division, of the Bureau of Fares and Rates, and the Chief, Legal Division, of the Bureau of Fares and Rates

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: These rules expand the authority delegated by the Board to the Director. Bureau of Operating Rights (BOR), to the Chief, Passenger and Cargo Rates Division, Bureau of Fares and Rates (BFR), and to the Chief, Legal Division, BFR. The Director of BOR is granted authority to act, when no person disclosing a substantial interest objects, on applications for exemptions by direct air carriers from the requirement that they obtain a certificate of public convenience and necessity, and from applicable parts of Board regulations. Authority is also given the Director of BOR to act on applications by foreign air carriers for on-route charter authority, and requests by foreign air carriers for waivers of conditions placed in their permits. The Chief of the Passenger and Cargo Rates Division is delegated authority to act on applications from carriers for exemptions from the requirement that they file tariffs and from applicable Board regulations, when those applications are consistent with Board policy. The Chief of the Legal Division of BFR is given authority to approve variations of the texts of overbooking disclosure notices, which are displayed at airline ticket counters and distributed with tickets. The delegations are at the initiative of the Board, and will expedite decision on these matters and relieve unnecessary administrative burdens. The Board is also correcting the designation of two paragraphs recently added to the delegated authority of the Director, BOR.

DATES: Effective: November 22, 1977. Adopted: November 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Babcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Wash-

[2] CAB Forms 257 and 262 were filed as a part of the original document.

SUPPLEMENTARY INFORMATION:

DELEGATION TO DIRECTOR, BUREAU OF OPERATING RIGHTS

The Board has, at present, delegated to the Director, Bureau of Operating Rights, under section 385.13 of the Organization Regulations (14 CFR § 385.13), authority to approve or deny certain applications for exemptions from provisions of the Act and the Board's regulations. Many uncontested exemption applications, filed pursuant to section 416 (b) of the Act, involve no controversial issues, and could similarly be handled by the staff. For example, air carriers may apply for renewal of exemptions previously ganted, in situations in which circumstances have not materially changed. Also, commuter air carriers may apply for authority to use aircraft which do not meet the size or capacity limitations specified in Part 298 of the Economic Regulations (14 CFR Part 298), at points, or in markets, where no competitive certificated service is provided. As another example, route carriers may apply to temporarily use, as a substitute, airports at or near certificated points, due to airport construction or other circumstances beyond their control.

In instances in which the course of action is clear under current Board policies, we have decided to expand the delegated authority of the Director of BOR by adding a new paragraph (b) to section 385.13 of the Organization Regulations (14 CFR § 385.13). The new paragraph will allow the Director to act, when no person disclosing a substantial interest objects, on applications by direct air carriers for exemptions from section 401 of the Act and the applicable sections of the Board's regulations.

Under section 212.4(b) of the Economic Regulations (14 CFR § 212.4(b)), the Board may require prior approval of the on-route charters of foreign air carriers if it finds that action is necessary in the public interest. As a general rule, the Board order placing the foreign air carrier's charter operations under prior approval sets forth the conditions which will govern disposition of any application filed under the order. Action on such an application is usually not controversial, therefore, and can be taken by the Board staff without our direct consideration. In addition, while requests for on-route charter authority are required to be filed at least 30 days in advance of the flight, the carriers frequently do not, or cannot, comply with this requirement, causing considerable last-minute difficulties in preparing the matter for Board action. We are therefore amending section 385.13(i) of our regulations (14 CFR § 385.13(i)) to authorize staff action on these requests, and on waivers of the time limit for the filing of these requests. In a case where the staff recommends denial of the request (which must be submitted to the President), or where Board consideration is necessary, the request will continue to be forwarded to us for action.

On occasion, the Board also receives from foreign air carriers requests for ad hoc waivers of restrictions imposed by their foreign air carrier permits. As with requests for on-route charter authority, the applications are generally filed on short notice, and are noncontroversial. The Board's rationale in imposing the permit restriction is clearly set forth at the time the permit is issued, and is sufficient for the staff to determine what action should be taken. For this reason, we are adding a new section to the delegation of authority given the Director, Bureau of Operating Rights, to allow staff action on these waiver requests when no person with a substantial interest objects, and where there is a provision in the foreign air carrier's permit which authorizes them.[1]

The Board is also taking this opportunity to make a technical change in section 385.13(jj) of the Organization Regulations (14 CFR § 385.13(jj)). By OR-115, adopted April 12, 1977 (42 FR 20120), the Board delegated authority to the Director, Bureau of Operating Rights, in coordination with the Chief, Tariffs Section, to grant or deny applications for exemption from section 403 of the Act to the extent necessary to allow performance of operations authorized by exemption under § 385.13(a)(2) of the regulations. Since a similar exemption of section 403 of the Act is needed for operations conducted under subparagraph (a)(1) and new paragraph (b) of § 385.13, we are revising paragraph (jj) to reflect this fact.

DELEGATION TO THE CHIEF, PASSENGER AND CARGO RATES DIVISION, BUREAU OF FARES AND RATES

With limited exceptions,[2] the Board's regulations now contain no specific delegation of authority for the approval of exemption applications filed by air carriers seeking permission to deviate from section 403 of the Act, the carrier's tariff, or applicable Board regulations. Examples of such exemptions recently granted by the Board include authorizations of reduced-rate transportation to transport stranded charter passengers on scheduled service at charter rates, free transportation of persons other than travel agents to travel agent training

[1] The Board is taking this opportunity to correct a clerical error in two previous amendments. In Regulation OR-121, Amendment No. 63 to Part 385, 42 FR 53599, October 3, 1977, the new paragraph added to section 385.13 should have been designated (kk) instead of (jj). In Regulation OR-122, Amendment No. 64 to Part 385, 42 FR 54798, October 11, 1977, the new paragraph added to section 385.13 should have been designated (ll) instead of (kk).

[2] The exceptions are contained in § 385.13 (jj), discussed earlier in this preamble, and in sections 385.14(e), 385.14(h) and 385.15 (j). Section 385.15(h) also delegates authority to the Chief, Tariffs Section. Passenger and Cargo Rates Division, Bureau of Fares and Rates, to act upon applications filed under § 223.8 of the regulations and section 403(b) of the Act for permission to furnish free or reduced-rate overseas or foreign air transportation; however, no comparable delegated authority exists for interstate air transportation.

programs, free transportation for Congressional Medal of Honor Society members to their convention, and an exemption from tariffs to permit more than one dog in a plane cabin for transportation to a Bermuda dog show. The processing of applications such as these, which raise no significant policy questions, nevertheless requires a substantial amount of time on the part of the Board and the staff under present procedures. We believe that, in cases where the requested exemptions fall within past Board policy and precedent, more efficient use of our limited resources will be made if authority to act upon the applications is delegated to the Chief, Passenger and Cargo Rates Division of the Bureau of Fares and Rates. Furthermore, in order to facilitate action by the staff on such applications we are providing that the grant or denial of the application may be made in a variety of forms, including a stamp or notation on the application, by letter or by order.

DELEGATION TO CHIEF, LEGAL DIVISION, BUREAU OF FARES AND RATES

Earlier this year the Board adopted a rule which requires carriers to display at their ticket counters, and distribute with tickets, a notice describing the industry practice of deliberately overbooking airline flights.[3] The text of the notice was prescribed in the rule but a provision was made for allowing a carrier to substitute, after Board approval, a notice in its own wording. One carrier has since requested, and the Board has granted, permission to substitute its own notice of overbooking. Action by Board members on such requests, which do not raise significant policy considerations, increases the time required for disposition of these matters, since the staff must prepare memoranda for the Board dealing with each request. The Board is therefore delegating authority to the Chief, Legal Division, Bureau of Fares and Rates, to act upon such applications. This delegation is parallel to an existing delegation of authority [4] to the same staff element to pass upon variations in the text of Warsaw Convention liability notices, upon which the rule for overbooking notices was largely modeled.

Since these amendments are of an administrative nature, affecting rules of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rules may become effective immediately.

Accordingly, the Board amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

1. Section 385.13 is amended by adding a new paragraph (b), presently reserved, revising paragraph (i), correcting the designation of the second paragraph (jj) to (kk) and paragraph (kk) to (ll), revising paragraph (jj), and by adding a new paragraph (mm), to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

* * * * *

(b) Approve, when no person disclosing a substantial interest objects, or deny applications of direct air carriers for exemptions from section 401 of the Act, and from applicable regulations under this chapter. This authority may not be redelegated.

* * * * *

(i) When filed in accordance with Part 212 of this chapter, approve or deny applications for authorization to conduct off-route charter trips, and approve requests for on-route charter flights for which prior approval is required under an order of the Board, including waivers of the time limitation for advance filing of such requests prescribed in the order.

* * * * *

(jj) Approve or deny, with the concurrence of the Chief, Tariffs Section, applications for exemption from section 403 of the Act to the extent necessary to permit performance of air carrier operations otherwise authorized by exemption granted under subparagraphs (a)(1) and (a)(2), and paragraph (b) of this section. This authority may not be redelegated.

(kk) Dismiss applications filed * * *

(ll) With respect to interaffiliate * * *

(mm) Approve or deny applications of foreign air carriers or waivers of permit limitations or restrictions, in accordance with permit provisions authorizing such waivers, when no person disclosing a substantial interest objects. This authority may not be redelegated.

2. Section 385.14 is amended by adding a new paragraph (b), presently reserved, to read as follows:

§ 385.14 Delegation to the Chief, Passenger and Cargo Rates Division, Bureau of Fares and Rates.

* * * * *

(b) Approve or disapprove air carrier applications filed under section 416(b) of the Act for exemption from section 403 of the Act, air carrier tariffs, and applicable Board regulations, in cases where the disposition of the application is governed by established Board policy and precedent. Such approval or disapproval may be taken by order, by letter, or by stamp or notation on a copy of the application.

* * * * *

3. Section 385.16a is revised to read as follows:

§ 385.16a Delegation to the Chief, Legal Division, Bureau of Fares and Rates.

The Board hereby delegates to the Chief, Legal Division, Bureau of Fares and Rates, the authority to:

(a) grant or deny applications for relief under paragraphs (e) and (f) of § 221.176 of this chapter.

(b) grant or deny applications for relief under paragraph (d) of § 221.177 of this chapter.

(Section 204 (a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-34210 Filed 11-28-77;8:45 am]

[3] See 14 (CFR § 221.177, adopted by Regulation ER-987, February 28, 1977, 42 FR (12420) March 4, 1977.

[4] 14 CFR § 385.16a.

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8910]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Standard Oil Co. (Ohio)

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Cleveland, Ohio manufacturer of petroleum and automotive products, to cease prohibiting its dealers from obtaining nongasoline products from independent sources or requiring them to deal exclusively with Sohio for automotive accessories. The order requires the firm to offer its lessee dealers new agreements which comply with the terms of the order, or to give notice that agreements will not be offered. Additionally, the order provides that where Sohio seeks to cancel an agreement prior to its expiration for "good cause", dealer may request that determination of good cause be submitted to arbitration.

DATES: Complaint issued Jan. 18, 1973; Decision and Order issued Nov. 2, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Alan K. Palmer, Asst. Director, Bureau of Competition, Federal Trade Commission, 6th & Pennsylvania Avenue NW., Washington, D.C. 20580, 202-724-1341.

SUPPLEMENTARY INFORMATION: On Friday, July 15, 1977, there was published in the FEDERAL REGISTER [42 FR 36480] a proposed consent agreement with analysis In the Matter of Standard Oil Co. (Ohio), 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.

Comments were filed and considered by the Commission.

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

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 affirmative corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Coercing and Intimidating: § 13.358 Distributors. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–5 Arbitration; 13.533–20 Disclosures; 13.533–65 Renegotiation and/or amendment of contracts. Subpart—Cutting off Access to Customers or Market: § 13.535 Contracts restricting customers' handling of competing products; § 13.560 Interfering with distributive outlets. Subpart—Dealing on Exclusive and Tying Basis: § 13.670 Dealing on exclusive and tying basis; 13.670–20 Federal Trade Commission Act.

(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.77-34215 Filed 11-28-77;8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34-14184, IC-10014; File No. S7-654]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Securities Confirmations; Postponement of Effective Date

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment; postponement of effective date of rule.

SUMMARY: The Commission has postponed until April 1, 1978, the effective date of its rule prescribing delivery and disclosure requirements for confirmations sent to customers by brokers and dealers. The confirmation rule was adopted by the Commission on May 5, 1977, to become effective on January 1, 1978, with the exception of certain paragraphs which became effective on June 1, 1977. Because the Commission desires to coordinate implementation of the new rule with the possible adoption of amendments to that rule currently under consideration, it has postponed until April 1, 1978, the effective date of the rule. This postponement of the effective date has also required a technical amendment to the text of the rule.

EFFECTIVE DATE: November 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Chase, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202–755–7621.

SUPPLEMENTARY INFORMATION: The Commission today announced the postponement of the effective date of Rule 10b–10 (17 CFR 240.10b–10) until April 1, 1978, with the exception of the several paragraphs of the rule which became effective on June 1, 1977. The Commission adopted Rule 10b–10 on May 5, 1977,[1] and, with the exception of those paragraphs which became effective on June 1, 1977, the rule was to become effective on January 1, 1978. The Commission also announced when it adopted Rule 10b–10 that it intended to propose amendments to Rule 10b–10, which it subsequently did on June 23, 1977.[2] The Commission currently is considering those proposed amendments, and the postponement of the January 1, 1978, effective date will permit the Commission additional time to consider those amendments and will allow both Rule 10b–10 and any of the amendments adopted to become effective at one time. A single effective date for the rule as adopted and any amendments adopted in the near future will minimize any burden on brokers and dealers who must revise printed confirmation forms, computer programs, and internal procedures in order to comply with the new confirmation requirements. Rule 15c1–4 (17 CFR 240.15c1–4), which currently prescribes confirmation delivery and disclosure requirements, will remain in effect until April 1, 1978.

AMENDMENTS TO RULE 10b–10

This change in the effective date also requires a technical amendment to Rule 10b–10, to reflect the fact that Rule 15c1–4 will remain effective until April 1, 1978. Paragraph (b) of Rule 10b–10 currently provides that brokers and dealers effecting transactions pursuant to qualified "periodic" plans may send to customers quarterly statements in lieu of the "written notification" described in paragraph (a) of Rule 15c1–4 (until January 1, 1978) and paragraph (a) of Rule 10b–10 (after that date). When Rule 10b–10 was originally adopted, it was anticipated that Rule 15c1–4 could be rescinded on January 1, 1978. By postponing the effective date of Rule 10b–10 until April 1, 1978, it has become necessary to amend the January 1, 1978, date that appears in paragraph (b) of the rule. This amendment is only technical in nature and imposes no new requirements upon brokers and dealers.

For the reasons stated above and pursuant to the Administrative Procedure Act (5 U.S.C. 551 et seq.), the Commission finds for good cause that notice and public procedure on this amendment to Rule 10b–10 is both impracticable and unnecessary and that this technical amendment to the rule should become effective immediately. The Commission also finds that adoption of this amendment to Rule 10b–10 does not impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act.

STATUTORY BASIS

The Securities and Exchange Commission, acting pursuant to the Act, and particularly sections 3, 9, 10, 11, 15, 17 and 23 thereof (15 U.S.C. 78c, 78i, 78j, 78k, 78o, 78q, and 78w) hereby postpones until April 1, 1978, the effective date of paragraph (a) of section 240.10b–10 of the Code of Federal Regulations and amends paragraph (b) of Section 240.10b–10 of Title 17 of the Code of Federal Regulations to reflect that delay in the effective date.

17 CFR Part 240.10b–10(e) is amended to read as follows:

§ 240.10b–10 Confirmations of transactions.

* * * * *

(b) A broker or dealer may effect transactions for or with the account of a customer without giving or sending to such customer the written notification described in paragraph (a) of this section (until April 1, 1978, § 240.15c1–4(a)) if * * *

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 17, 1977.

[FR Doc.77-34226 Filed 11-28-77;8:45 am]

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[1] *See* Securities Exchange Act Release No. 13508 (May 5, 1977), 41 FR 25318 (May 17, 1977).

[2] *See* Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977).

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 77c-0362]

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Provisional Listing of Graphite; Termination of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document terminates the closing date for the provisional listing, and hence the approval, of the color additive graphite for use in externally applied cosmetics, including those intended for use in the area of the eye. The closing date is being terminated because graphite contains polynuclear aromatics, some of which are known to be carcinogens. Graphite may not be added to externally applied cosmetics, including those used in the area of the eye, after November 29, 1977.

DATE: Effective November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: The Color Additive Amendments of 1960 provide that a color additive may be approved only if data establish that it is safe under its permitted conditions of use. Section 203(b) of the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) provides, however, for the provisional listing of color additives in use in 1960 on an interim basis pending completion of scientific investigations needed for determinations about "permanent listing" in accordance with section 706 of the Federal Food, Drug, and Cosmetic Act (sec. 706, 74 Stat. 399-403 (21 U.S.C. 376)). Section 81.1 (21 CFR 81.1) of the color additive regulations designates those color additives that are provisionally listed.

The color additive graphite has been in use for many years in externally applied cosmetics. Graphite had been provisionally listed for use in externally applied cosmetics on January 11, 1963 (28 FR 317). Graphite is currently provisionally listed for use in externally applied cosmetics, with a closing date of October 31, 1977. The establishment of October 31, 1977 as the closing date for this color originated with a proposal published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41860). The final regulations in response to that proposal were issued in the FEDERAL REGISTER of February 4, 1977 (42 FR 6992).

In response to a comment regarding the proposal to extend the provisional list published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41860), the Commissioner indicated that the main question about the use of graphite in cosmetics is whether extractable polynuclear aromatic hydrocarbons (PNA's) are contained in the color additive. The need for additional data to resolve this question was also discussed in the preamble to the final regulation, published in the FEDERAL REGISTER of February 4, 1977 (42 FR 6996).

The PNA's comprise a large family of chemicals where two to seven benzene rings have fused in an angular arrangement to form the PNA molecule. The particular PNA's that have raised the greatest concern are those containing three to six benzene rings in their molecular structure. A number of literature references indicate that certain types of graphite may contain PNA's. Accordingly, the petitioner was requested to supply data to demonstrate whether graphite contains PNA's. At the time of the February 4, 1977 regulation the petitioner had submitted an analysis of one batch of graphite which showed that no PNA's were present to a claimed sensitivity of 2 parts per billion (ppb). These data, however, were determined to be inadequate because there were serious deficiencies in the analytical method, and the results of the analysis were from only one sample of graphite. Because there were no conclusive data at that time that indicated whether graphite contained PNA's, the Commissioner concluded that its provisional listing could safely continue for the short time necessary to develop and submit the additional data.

Since that time the petitioner has submitted data from the analysis of six additional batches of graphite mined from two different countries. All these batches of graphite were shown to contain PNA's of various types and in variable amounts. All samples contained pyrene in amounts ranging from 15 to 90 ppb and fluoranthene in the range of 3 to 85 ppb. Benzo(a)pyrene (BaP) and benzo(b)fluoranthene (BbF), which are known carcinogens (ACS Monograph No. 173 Chemical Carcinogens), have been found at the level of 3 ppb for BaP and 9 to 11 ppb for BbF in samples of graphite that were mined in Korea. Chrysene, which may be a carcinogen, has been found at the level of 12 to 32 ppb in the Korean samples. In addition, all the analyses were characterized by the presence of unidentified components. These reports are on public display in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Although some of the samples contained only PNA's that have not been shown to be carcinogens, such as pyrene and fluoranthene, the presence of these PNA's in all samples analyzed, coupled with the presence of unidentified components in these extracts of the graphite samples, portends the presence of carcinogenic PNA's. The Commissioner concludes, therefore, that the data submitted by the petitioner are inadequate to support safe conditions of use for graphite in coloring drugs and cosmetics.

Pursuant to the regulation published in the FEDERAL REGISTER of February 4, 1977, the petitioner agreed to the requirement of developing adequate analytical procedures for the demonstration of the presence or absence of PNA's and to submit data from the analysis of several batches of graphite from various sources to FDA by the deadline of August 3, 1977. The continued provisional listing of the color was dependent upon the satisfactory completion of these requirements.

Under the transitional provision of the Amendments (section 203(d)(1)(E)), the Commissioner may "provide for the termination of a provisional listing (or deemed provisional listing) of a color additive or particular use thereof forthwith whenever in his judgment such action is necessary to protect the public health." On the basis of the available data, the Commissioner concludes that the color additive graphite may be expected to contain PNA's, some of which are known carcinogens. The possible presence of PNA's raises serious questions about the safety of the color additive under intended conditions of use. The data presented by the petitioner generally confirm the presence of PNA's in the graphite samples; but the data are not adequate to demonstrate unequivocally the absence of PNA's known to be carcinogenic. Accordingly, under section 203(d)(1)(E) of the Amendments, the Commissioner concludes that the provisional listing of graphite for use in externally applied cosmetics should be terminated because such action is necessary to protect the public health.

Graphite is the subject of a petition (CAP 8C0080) submitted by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry, and Fragrance Association, 1133 15th Street NW., Washington, D.C. 20005). This petition for the permanent listing of graphite for use in coloring externally applied cosmetics, including those intended for use in the area of the eye, was filed by a notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200), under the provisions of section 706 of the Federal Food, Drug, and Cosmetic Act. A subsequent notice published in the FEDERAL REGISTER of June 17, 1977 (42 FR 30893) amended the filing of this petition to include the additional use of the color additive in externally applied drugs, including those intended for use in the area of the eye. The Commissioner finds that the possible presence of extractable PNA's precludes him from approving the petition requesting the "permanent" listing of graphite (CAP 8C0080). Published elsewhere in this issue of the FEDERAL REGISTER is a notice denying the petition to list the color additive for use in externally applied drugs and cosmetics, including drugs and cosmetics intended for use in the area of the eye.

The Commissioner concludes that the protection of the public health does not require the recall from the market of cosmetics containing the color additive, or the destruction of cosmetics in preparation to which the color additive has already been added.

The Commissioner is aware that supplies of alternative cosmetic labeling may be difficult to obtain immediately. Consequently, cosmetic labeling listing graphite among the ingredients may continue to be used with the uncolored product or products containing an alternative color during the time necessary to obtain supplies of revised labeling or until November 29, 1978, whichever occurs first.

The Commissioner has carefully considered the environmental effects of this action, and because the action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the FDA environmental assessment, together with copies of the other documents mentioned above, are on file with the Hearing Clerk (HFC-20), Food and Drug Administration,

Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* in paragraph (g), by deleting the table entry for Graphite.

2. In § 81.10 by adding new paragraph (j), to read as follows:

§ 81.10 Termination of provisional listing of color additives.

* * * * *

(j) *Graphite.* Data have been developed that show the contamination of graphite with polynuclear aromatic hydrocarbons (PNA's). There is no reasonable assurance this color can be produced so that it will not contain PNA's as an impurity. The presence of certain PNA's in graphite would indicate that PNA's known to be carcinogenic to animals and humans may also be present. Therefore, there is no scientific evidence that will support a safe tolerance for this color in drugs or cosmetics. The Commissioner of Food and Drugs, in order to protect the public health, hereby terminates the provisional listing of graphite for use in externally applied cosmetics, effective November 29, 1977.

* * * * *

Effective date: November 29, 1977.

(Sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: November 23, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–34253 Filed 11–28–77;8:45 am]

[4110–03]

[Docket No. 77C–0365]

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

Provisional Listing of Ext. D&C Green No. 1; Termination of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document terminates the closing date for the provisional listing, and hence the approval, of the color additive Ext. D&C Green No. 1 for use in externally applied drugs and cosmetics. All color additive certificates for the color are being cancelled. The closing date is being terminated because of the absence of methodology necessary for the certification of the color. Ext. D&C Green No. 1 may not be added to externally applied drugs and cosmetics after November 29, 1977.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: The Color Additive Amendments of 1960 provide that a color additive may be approved only if data established that it is safe under its permitted conditions of use. Section 203(b) of the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)) provides, however, for provisional listing of color additives in use in 1960 on an interim basis pending completion of scientific investigations needed for determinations about "permanent listing" in accordance with section 706 of the Federal Food, Drug, and Cosmetic Act (sec. 706, 74 Stat. 399–403 (21 U.S.C. 376)). Section 81.1 (21 CFR 81.1) of the color additive regulations designates those color additives that are provisionally listed.

The color additive Ext. D&C Green No. 1 has been in use for many years. Ext. D&C Green No. 1 was approved for externally applied drug and cosmetic use as a permitted "coal-tar" color after enactment of the Federal Food, Drug, and Cosmetic Act in 1938 by order published in the FEDERAL REGISTER of May 9, 1939 (4 FR 1922). Ext. D&C Green No. 1 was provisionally listed for use in externally applied drugs and cosmetics on July 12, 1960, and appeared officially on the provisional list published in the FEDERAL REGISTER of October 12, 1960 (25 FR 9759). Ext. D&C Green No. 1 is currently provisionally listed for use in externally applied drugs and cosmetics, with a closing date of October 31, 1977. The establishment of October 31, 1977 as the closing date for this color originated with a proposal published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41860). The final regulations in response to that proposal were issued in the FEDERAL REGISTER of February 4, 1977 (42 FR 6992). The color additive regulation published in the FEDERAL REGISTER of February 4, 1977 extended the closing date for Ext. D&C Green No. 1 until October 31, 1977 to provide time for the submission of required chemistry data to support the "permanent" listing of the color.

Ext. D&C Green No. 1 is the subject of a petition (CAP 7C0055) submitted by the Cosmetic, Toiletry, and Fragrance Association, Inc., 1133 15th St. NW., Washington, D.C. 20005. The petition was filed by notice in the FEDERAL REGISTER of August 6, 1973 (38 FR 21199), under the provisions of section 706 of the act, as amended by the Color Additive Amendments of 1960. The petition for Ext. D&C Green No. 1 seeks listing for use in externally applied drug and cosmetic products.

Ext. D&C Green No. 1 is a color additive that has been subject to the requirements of batch certification as provided by section 706(c) of the act. The Commissioner has concluded that batch certification of the color would continue to be necessary if the color were to be listed. The conditions for the continued provisional listing of the color were defined in the FEDERAL REGISTER regulation of February 4, 1977 under § 81.27(c) (21 CFR 81.27(c)). Adequate analytical methods were required for the development of specifications for batch certification and the definition of purity of the color used for toxicological testing. These data and analytical methods were to be submitted to FDA by August 3, 1977.

The petitioner agreed under the requirements of § 81.27(c)(2) (21 CFR 81.27(c)(2) to provide that information necessary for the certification and the "permanent" listing for Ext. D&C Green No. 1. In response to the regulation the petitioner submitted data for a regulatory analytical method and analytical procedures for the identification of subsidiary colors.

The agency reviewed these submissions and found that the data were not adequate to resolve the chemistry deficiencies for the color. The petitioner was notified by letter on June 30, 1977 that the deficiencies in the chemistry data required submission of additional data to support the "permanent" listing. Additional information necessary to resolve the deficiencies in the chemistry data was not submitted prior to the expiration of the deadline date of August 3, 1977 as required under § 81.27(c)(2).

The purpose of the transitional provisions of the Color Additive Amendments of 1960, (section 203) as noted above, "is to make possible, on an interim basis for a reasonable period, through provisional listings, the use of commercially established color additives to the extent consistent with the public health, pending the completion of the scientific investigations needed as a basis for making determinations as to listing of such additives." This provisional listing of previously marketed color additives was to expire on the date, also referred to as the closing date, 2½ years after the effective date of the Amendments.

Section 203 of the Amendments further provided, however, that the closing date for the provisional listing could be postponed to a later date as considered "necessary to carry out the purpose of this section, if in the Secretary's judgment such action is consistent with the objective of carrying to completion in good faith, as soon as reasonably practicable, the scientific investigations necessary for making a determination as to listing such additive, or such specified use or uses thereof, under section 706 of the basic Act."

Under the transitional provision of the Amendments (section 203(a)(2)), the Commissioner may "terminate the postponement of the closing date at any time if he finds that such postponement should not have been granted, or that by reason of change in circumstances the basis for such postponement no longer exists, or that there has been a failure to comply with a requirement for submission of progress reports or with other conditions attached to such postponement."

The Commissioner finds that there has been a failure to comply with the conditions attached to the postponement of the closing date and hereby terminates the postponement of the closing date for the provisional listing of Ext. D&C Green No. 1 for use in externally applied drugs and cosmetics in accordance with section 203(a)(2) of the transitional provisions of the Color Additive Amendments of 1960. It is not possible to certify batches of the color without adequate analytical methods and data. Because the petitioner has not complied with the requirements of § 81.27(c)(2) (21 CFR 81.27(c)(2)) and in the absence of the required data that are considered to be necessary for certification of the color, the Commissioner concludes that the provisional listing of Ext. D&C Green No. 1 shall be terminated on November 29, 1977. Published elsewhere in this issue of the FEDERAL REGISTER is a notice denying the petition to list the color additive for use in externally applied drugs and cosmetics.

All certificates heretofore issued for batches of Ext. D&C Green No. 1 are revoked and the addition of the color to externally applied drugs or cosmetics after November 29, 1977 will cause such product to be adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and subject to regulatory action. This prohibition applies to the use of the straight color, its lakes, and mixtures of Ext. D&C Green No. 1 or its lake. The Commissioner concludes that the protection of the public health does not require the recall from the market of drugs and cosmetics containing the color additive, or the destruction of drugs or cosmetics in preparation to which the color additive has already been added.

Manufacturers of new drugs and new animal drugs (including certifiable antibiotics for animal use) that contain Ext. D&C Green No. 1 may either delete the color additive or substitute a different color in accordance with the provisions of § 314.8 (d)(3) and (e) or § 514.8 (d)(3) and (e) (21 CFR 314.8 (d)(3) and (e) or 21 CFR 514.8 (d)(3) and (e)) as appropriate. The applicant shall submit data providing the new composition and showing that the change in composition does not interfere with any assay or other control procedures used in manufacturing the drug, or that the assay and control procedures used in manufacturing the drug have been revised to make them adequate. The applicant shall also submit data available to establish the stability of the revised formulation or, if the data are too limited to support a conclusion that the drug will retain its declared potency for a reasonable marketing period, a commitment to test the stability of marketed batches at reasonable intervals, to submit the data as they become available, and to recall from the market any batch found to fall outside the approved specifications for the drug.

Each sponsor of a notice of claimed investigational exemption for a new drug (IND) or a notice of claimed investigational exemption for a new animal drug (INAD) containing the subject color should promptly amend the IND or INAD to indicate that the color additive has been deleted or a different color additive substituted.

The Commissioner is aware that supplies of alternative color additives may be difficult to obtain immediately. Consequently, drug and cosmetic labeling that states that the product contains "artificial color," or that specifically identifies Ext. D&C Green No. 1, may continue to be used with the uncolored product or products containing alternative colors during the time necessary to obtain supplies of revised labeling or until November 29, 1978, whichever occurs first.

The Commissioner has carefully considered the environmental effects of this action, and because the action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the FDA environmental assessment, together with copies of the other documents mentioned above, are on file with the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 81 and 82 are amended as follows:

1. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives*, in paragraph (c), by deleting the table entry for Ext. D&C Green No. 1.

b. In § 81.10 by adding new paragraph (k), to read as follows:

§ 81.10 Termination of provisional listing of color additives.

* * * * *

(k) *Ext. D&C Green No. 1.* The Commissioner concludes that there are inadequate analytical methods to permit certification of the color additive Ext. D&C Green No. 1. In addition, the Commissioner has found that there was a failure to comply with the conditions attached to the postponement of the closing date in accordance with section 203(a)(2) of the transitional provisions of the Color Additive Amendments of 1960. The Commissioner of Food and Drugs hereby terminates the provisional listing of Ext. D&C Green No. 1 for use in externally applied drugs and cosmetics, effective November 29, 1977.

c. In § 81.30 paragraphs (k) and (l) are reserved and new paragraph (m) is added to read as follows:

§ 81.30 Cancellation of certificates.

* * * * *

(k)-(l) [Reserved]

(m) (1) Certificates issued for Ext. D&C Green No. 1 and all mixtures containing this color additive are cancelled and have no effect after November 29, 1977, and use of the color additive in the manufacture of drugs or cosmetics after this date will result in adulteration.

(2) The Commissioner finds, on the basis of the scientific evidence before him, that no action has to be taken to remove from the market drugs and cosmetics containing the color additive.

§ 82.2201 [Revoked]

2. Part 82 is amended by revoking § 82.2201 *Ext. D&C Green No. 1.*

Notice and public procedure are not necessary prerequisites to the promulgation of this order because section 203 (d)(2) of Pub. L. 86-618 so provides.

Effective date: November 29, 1977.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: November 21, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-34038 Filed 11-28-77;8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N-0249]

PART 314—NEW DRUG APPLICATIONS

Procedures for Filing Over Protest

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This amendment revises the agency's regulation governing the procedure for filing a new drug application (NDA) over protest. It extends from 60 to 90 days the time within which FDA must respond to a request to file over protest, and it specifies that such requests should be submitted to the Assistant Director for Regulatory Affairs, Bureau of Drugs.

EFFECTIVE DATE: December 29, 1977.

ADDRESS: Requests for a new drug application (NDA) or abbreviated new drug application (ANDA) to be filed over protest should be sent to the Assistant Director for Regulatory Affairs (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Jean Mansur, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3640.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 26, 1975 (40 FR 44335), the Commissioner of Food and Drugs proposed to revise § 314.110(d) (21 CFR 314.110(d)) in two respects: first, to extend the time within which FDA must respond to a request to file an NDA or ANDA over protest from 60 to 90 days; and second, to specify that such requests should be submitted to the office of the Hearing Clerk, Food and Drug Administration. Interested persons were given 60 days to comment on the proposal.

Section 314.110(d) sets forth a procedure whereby an applicant who disputes the finding by FDA that his NDA may not be filed because it is incomplete or inadequate may make a written request that the NDA be filed over protest. This request, which an applicant submits instead of additional information of the kind specified by FDA, represents his contention that the application is complete and adequate and that no further data are required for its approval. The agency then reevaluates the NDA and either approves it or gives the applicant notice of an opportunity for a hearing on the question of whether it is approvable. A request that an NDA be filed over protest, like other correspondence pertaining to an NDA, is now usually submitted directly to the division in the Bureau of Drugs that is responsible for review of the NDA.

Eight comments on the proposal were received. The comments came from drug firms, professional associations, and an individual. A summary of the comments and the Commissioner's conclusions are as follows.

1. Five comments objected to the provision that would require a request to file an NDA over protest be submitted to the Hearing Clerk, Food and Drug Administration instead of the Bureau of Drugs. The comments said such a change would make the existence of a pending NDA public information when previously this has been considered proprietary information and, as a consequence, has been kept confidential. The comments acknowledged that a request to file an NDA over protest could result in publication of a notice of opportunity for hearing, making the existence of an application public information at that point, but argued there is no reason to make such information public any earlier than is necessary. Early disclosure, they said, could be a potential advantage to competitors.

The preamble to the proposal explained that the reason for specifying that a request to file an NDA over protest be submitted to the Hearing Clerk was to assure processing of such requests within the time limits specified in the regulations. It was believed that the use of a single office responsible for their receipt and monitoring would serve to highlight these requests as high priority submissions and preclude their being obscured by the many routine, pending NDA submissions. The Commissioner acknowledged in the preamble that submissions to the office of the Hearing Clerk would result in public disclosure of a pending NDA somewhat before this information normally is disclosed by publication in the FEDERAL REGISTER of a notice of opportunity for hearing or by public notice that the application is the subject of an approvable letter.

After considering the comments on this question, the Commissioner has decided to modify the proposed change to provide that requests to file an NDA over protest be submitted to the Assistant Director for Regulatory Affairs, Bureau of Drugs (address given above). The Commissioner expects that designating a place for receipt of these requests other than the office of the Hearing Clerk or the reviewing division will accomplish his intended purpose. It will assist the Bureau in expeditiously handling them. At the same time it will not make public the existence of a pending NDA any sooner than would occur under present practice.

2. One comment agreed that extending the time from 60 to 90 days for FDA to evaluate an NDA that is the subject of a request to file over protest is reasonable. Four comments expressed the view that the extension of time is unreasonable and unnecessary. They contended that 60 days is a sufficient time for approval or issuance of a notice of opportunity for a hearing because the application will have been thoroughly reviewed recently and because the overall process of NDA review and resolution of conflicts as to approvability already requires a substantial amount of time. One comment said that in almost all instances where an applicant requests filing over protest, it is because of minor technical inadequacies that are clear from a cursory examination and can be corrected relatively easily in a resubmission of the NDA. Another of these comments offered a counterproposal—that if an applicant sends his request to file over protest within 30 days after being notified of the agency's refusal to file, FDA should likewise have only 30 days to respond; otherwise, FDA could use up to 90 days. Another comment suggested that if FDA performed a cursory initial examination of the application and within 30 days notified the applicant of its deficiencies, then a much longer period would be justified for detailed review if the applicant requested filing over protest; but, it continued, where the initial review is comprehensive and time-consuming, the applicant is entitled to a rapid response upon filing over protest. One of the comments further said that even if a drug is improvidently approved, it can be recalled without a prior hearing if it creates an imminent health hazard. This same comment proposed that FDA be allowed 90 days to respond only if the applicant agrees or if FDA certifies to the applicant that there is more than a mere possibility that the FDA will find, without submission of further data, that the drug for which approval is sought is safe and effective.

The Commissioner disagrees with those comments opposing the extension of time. Under § 314.110, an NDA filed over protest must be approved or must be the subject of a notice of opportunity for hearing on the issue of its approvability. Unless the application is grossly deficient, a cursory examination that does not reveal all inadequacies of an NDA is not a satisfactory basis for initially refusing to file when such action may result in filing the application over protest. In addition, this would be likely to introduce another step in the review process: An applicant who responded to the cursory initial examination by furnishing more information for his NDA might very likely be notified of other deficiencies when a more comprehensive review was undertaken. Such a "piecemeal" approach has traditionally met with disfavor on the part of the drug industry.

The current approach of FDA is to have the responsible division review the NDA or ANDA in sufficient depth that at least all major problems can be identified. In cases where an apparently insurmountable single problem is immediately found, however, other, more technical reviews may be postponed until the single problem is remedied or the application is filed over protest and a hearing is requested. In any event, the decision not to accept an NDA for filing is delegated to FDA's division directors who can, do, and must rely on the act, regulations, general policies and specific precedents in making the decisions. They may consult with superiors, other Bureau or FDA officials, or the Office of Chief Counsel for guidance, but this is not required.

However, when an NDA is filed over protest, the reasons for rejecting the NDA and the underlying approvability or nonapprovability issues are reviewed throughout the Bureau (and with the Office of Chief Counsel). The procedure may include the following: evaluation by medical officers, pharmacologists, microbiologists, and chemists, as appropriate, depending on the issues; possible consultation with experts, advisory committees, FDA laboratory personnel; supervisory, administrative, and legal reviews appropriate to an institutional decision; and preparation of either the approval letter or the notice of opportunity for hearing, with publication of the latter in the FEDERAL REGISTER.

This description of the practice within FDA should make it clear why it is in the interest of the applicant, the FDA, and the public that adequate time be allowed for reasonable internal reevaluation of the NDA rather than, in effect, requiring mere reiteration of the rejection for filing. Experience has shown that in some instances, the reevaluation has led to a resolution of the problems without a formal hearing, or to a clarification of policy that eliminated the need for a hearing, or to other actions that avoided prolonged and unnecessary legal maneuvering.

The fact that approval of an NDA may be withdrawn without a prior hearing if it creates an imminent health hazard does not justify approving it in the first instance if the NDA is incomplete or inadequate in the data required to demonstrate safety and effectiveness and the adequacy of manufacturing procedures.

Since the amendment to § 314.110(d) was proposed, FDA has received at least 16 requests to file NDA's over protest. New drug applications that reach this stage may present issues that are complex and may involve voluminous or technical material. Each of these factors has reemphasized the need for more than 60 days for agency response. The change to allow 90 days will make the regulations more realistic.

3. One comment said the 90-day limit should be extended to include new animal drugs under § 514.110 (21 CFR 514.-110), where no time limit currently exists.

The Commissioner is considering this suggestion. If he concludes that such a change in the new animal drug regulations is warranted, it will be the subject of a future FEDERAL REGISTER notice.

4. One comment proposed that a second notice and comment period be added to the rulemaking process.

The Commissioner finds that the current procedures for interested persons to comment on proposed amendments to the regulations are sufficient, and any additional period for submitting comments would needlessly prolong the rulemaking process without providing any significant public benefit.

5. The Commissioner also provides the following information: A request that an NDA be filed over protest is an option set forth in the regulatory scheme applicable to new drug procedures (21 CFR Part 314) that an applicant may choose instead of the option of amending the application by submitting more data in response to the stated deficiencies. Although this has been generally understood within the drug industry, there have been instances in which an applicant both submitted data to amend the NDA and requested that the NDA be filed over protest. This points out the need to clarify § 314.110(d) to show that these are alternative options. Although not included in the proposal, this clarifying language is included in this regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)) and under authority delegated to the Commissioner (21 CFR 5.1), § 314.110 is amended by revising paragraph (d) and adding new paragraph (e), to read as follows:

§ 314.110 Reasons for refusing to file applications.

* * * * *

(d) If an applicant disputes the finding that his application is incomplete or inadequate and, therefore, may not be filed, he may, instead of submitting additional data, make written request that the previously submitted application be filed over protest. Such request shall be submitted to the Assistant Director for Regulatory Affairs (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

(e) Upon receipt of a written request to file an application over protest, the Food and Drug Administration shall consider the application filed and shall reevaluate the application. Within 90 days of the date of receipt of such written request by the Assistant Director for Regulatory Affairs, or such additional period as may be agreed upon by the parties, the application shall be approved, or the applicant shall be given hearing pursuant to § 314.200 on the written notice of an opportunity for a question of whether there are grounds for denying approval pursuant to section 505(d) of the act.

Effective date: This regulation shall be effective December 29, 1977.

(Sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355).)

NOTE.—The Commissioner has considered the economic impact of the regulation and no major economic impact has been found, as defined in Executive Order 11821, as amended by Executive Order 11949, OMB Circular A–107, and guidelines issued by the Department of Health, Education, and Welfare. Copies of the economic impact assessment are on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 21, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-34039 Filed 11-28-77;8:45 am]

[7550–01]

Title 29—Labor

CHAPTER X—NATIONAL MEDIATION BOARD

PART 1209—PUBLIC OBSERVATION OF NATIONAL MEDIATION BOARD MEETINGS

AGENCY: National Mediation Board.

ACTION: Notice of Interim Rulemaking.

SUMMARY: The interim regulations replace Section 1209 of the National Mediation Board Rules. The interim regulations allow the Board to utilize the expedited procedures of the Sunshine Act to close deliberations exempt from public observation and qualifying for closure by expedited procedures. The interim regulations continue to provide for closure by regular procedures of other deliberations exempt from public observation.

DATES: Effective on an interim basis on November 29, 1977. Written comments received on or before December 29, 1977.

ADDRESS: Written comments should be addressed to Mr. Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Washington, D.C. 20572.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Telephone 202–523–5920.

SUPPLEMENTARY INFORMATION: These interim regulations are issued pursuant to the authority of 5 U.S.C. 552b (g) and 44 Stat. 577, as amended (45 U.S.C. 151 et seq.).

By direction of the National Mediation Board.

Dated: November 22, 1977.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

29 CFR, Chapter X, is amended by substitution of the following for the existing Part 1209:

Sec.

AUTHORITY: 5 U.S.C. 552b(g), 44 Stat. 577, as amended (45 U.S.C. 151 et seq.).

§ 1209.01 Scope and purpose.

(a) The provisions of this part are intended to implement the requirements of section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b.

(b) It is the policy of the National Mediation Board that the public is entitled to the fullest practicable information regarding its decisionmaking processes. It is the purpose of this part to provide the public with such information while protecting the rights of individuals and the ability of the agency to carry out its responsibilities.

§ 1209.02 Definitions.

For purposes of this part:

(a) The terms "Board" or "agency" mean the National Mediation Board, a collegial body composed of three members appointed by the President with the advice and consent of the Senate.

(b) The term "meeting" means the deliberations of at least two members of the Board where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted or with respect to any information proposed to be withheld under by 5 U.S.C. 552b(d) or (e)/5 U.S.C. 552b(c).

§ 1209.03 Conduct of National Mediation Board business.

Members shall not jointly conduct or dispose of agency business other than in accordance with this part.

§ 1209.04 Open meetings.

Every portion of every Board meeting shall be open to public observation, except as otherwise provided by § 1209.05 of this Part.

§ 1209.05 Closing of meetings; reasons therefor.

(a) Except where the Board determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Board of any matter involving a determination on the record after opportunity for a hearing, or any court proceedings collateral or ancillary thereto.

(b) Except where the Board determines that the public interest requires otherwise, the Board also may close meetings, or portions thereof, when the deliberations concern matters or information falling within the scope of 5 U.S.C. 552b (c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by statue); (c)(4) (trade secrets and commercial or financial information obtained from a person and privileged or confidential); (c)(5) (matters of alleged criminal conduct or formal censure); (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy); (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes); or (c)(9)(B) (disclosure would significantly frustrate implementation of a proposed agency action).

§ 1209.06 Action necessary to close meetings; record of votes.

A meeting shall be closed to public observation under § 1209.05, only when a majority of the members of the Board who will participate in the meeting vote to take such action.

(a) When the meeting deliberations concern matters specified in § 1209.05(a), the Board members shall vote at the beginning of the meeting, or portion thereof, on whether to close such meeting, or portion thereof, to public observation, and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public at the earliest practicable time.

(b) When the meeting deliberations concern matters specified in § 1209.05 (b), the Board shall vote on whether to close such meeting, or portion thereof, to public observation, and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. The vote shall be taken at a time sufficient to permit inclusion of information concerning the open or closed status of the meeting in the public announcement thereof. A single vote may be taken with respect to a series of meetings at which the deliberations will concern the same particular matters where subsequent meetings in the series are scheduled to be held within thirty days after the initial meeting. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public within one day after the vote is taken.

(c) Whenever any person whose interests may be directly affected by deliberations during a meeting, or a portion thereof, requests that the Board close that meeting, or portion thereof, to public observation for any of the reasons specified in 5 U.S.C. 552b(c)(5) (matters of alleged criminal conduct or formal censure), (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy), or (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes), the Board members participating in the meeting, upon request of any one member of the Board, shall vote on whether to close such meeting, or a portion thereof, for that reason. A record of such vote, reflecting the vote of each member of the Board participating in the meeting, shall be kept and made available to the public within one day after the vote is taken

(d) After public announcement of a meeting as provided in § 1209.07 of this part, a meeting, or portion thereof, announced as closed may be opened or a meeting, or portion thereof, announced as open may be closed, only if a majority of the members of the Board who will participate in the meeting determine by a recorded vote that Board business so requires and that an earlier announcement of the change was not possible. The change made and the vote of each member on the change shall be announced publicly at the earliest practicable time.

(e) Before a meeting may be closed pursuant to § 1209.05 the General Counsel of the Board shall certify that in his or her opinion the meeting may properly be closed to public observation. The certification shall set forth each applicable exemptive provision for such closing. The certification shall be retained by the agency and made publicly available as soon as practicable.

§ 1209.07 Notice of meetings; public announcement and publication.

(a) A public announcement setting forth the time, place and subject matter of meetings or portions thereof closed to public observation pursuant to the provisions of § 1209.05(a) of this part, shall be made at the earliest practicable time.

(b) Except for meetings closed to public observation pursuant to the provisions of § 1209.05(a) of this part, the agency shall make public announcement of each meeting at least 7 days before the scheduled date of the meeting. The announcement shall specify the time, place and subject matter of the meeting, whether it is to be open to public observation or closed, and the name, address and phone number of an agency official designated to respond to requests for information about the meeting. The 7 day period for advance notice may be shortened only upon a determination by a majority of the members of the Board who will participate in the meeting that agency business requires that such meeting be called at an earlier date, in which event the public announcement shall be made at the earliest practicable time. A record of the vote to schedule a meeting at an earlier date shall be kept and made available to the public.

(c) Within one day after a vote to close a meeting, or any portion thereof, pursuant to the provisions of § 1209.05(b) of this part, the agency shall make publicly available a full written explanation of its action closing the meeting, or portion thereof, together with a list of all persons expected to attend the meeting and their affiliation.

(d) If after a public announcement required by paragraph (b) of this section has been made, the time and place of the meeting are changed, a public announcement of such changes shall be made at the earliest practicable time. The subject matter of the meeting may be changed after public announcement thereof only if a majority of the members of the Board who will participate in the meeting determine that agency business so requires and that no earlier announcement of the change was possible. When such a change in subject matter is approved a public announcement of the change shall be made at the earliest practicable time. A record of the vote to change the subject matter of the meeting shall be kept and made available to the public.

(e) All announcements or changes thereof issued pursuant to the provisions of paragraphs (b) and (d) of this section, or pursuant to the provisions of § 1209.06(d), shall be submitted for publication in the FEDERAL REGISTER immediately following their release to the public.

(f) Announcement of meetings made pursuant to the provisions of this section shall be posted on a bulletin board maintained for such purpose at the Board's offices, 1425 K Street, N.W., Washington, D.C. Interested individuals or organizations may request the Executive Secretary, National Mediation Board, Washington, D.C. 20572 to place them on a mailing list for receipt of such announcements.

§ 1209.08 Transcripts, recordings or minutes of closed meetings; retention; public availability.

(a) For every meeting or portion thereof closed under the provisions of § 1209.05, the presiding officer shall prepare a statement setting forth the time and place of the meeting and the persons present, which statement shall be retained by the agency. For each such meeting or portion thereof there also shall be maintained a complete transcript or electronic recording of the proceedings, except that for meetings closed pursuant to § 1209.05(a) the Board may, in lieu of a transcript or electronic recording, maintain a set of minutes fully and accurately summarizing any action taken, the reason therefor and views thereof, documents considered, and the members' vote on each roll call vote.

(b) The agency shall maintain a complete verbatim transcript, a complete electronic recording, or a complete set

of minutes for each meeting or portion thereof closed to public observation, for a period of at least one year after the close of the agency proceeding of which the meeting was a part, but in no event for a period less than two years after such meeting.

(c) The agency shall make promptly available to the public copies of transcripts, electronic recordings or minutes maintained as provided in paragraphs (a) and (b) of this section, except to the extent the items therein contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. 552b(c).

(d) Upon request in accordance with the provisions of this paragraph and except to the extent they contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. 552b(c), copies of transcripts or minutes, or transcriptions of electronic recordings including the identification of speakers, shall be furnished subject to the payment of duplication costs in accordance with the schedule of fees set forth in § 1208.06 of the Board's Rules, and the actual cost of transcription. Requests for copies of transcripts or minutes, or transcriptions of electronic recordings of Board meetings shall be directed to the Executive Secretary, National Mediation Board, Washington, D.C. 20572. Such requests shall reasonably identify the records sought and include a statement that whatever costs are involved in furnishing the records will be acceptable or, alternatively, that costs will be acceptable up to a specified amount. The Board may determine to require prepayment of such costs.

§ 1209.09 Requests for records under Freedom of Information Act.

Requests to review or obtain copies of agency records other than notices or records prepared under this part may be pursued in accordance with the Feedom of Information Act (5 U.S.C. 552). Part 1208 of the Board's Rules addresses the requisite procedures under that Act.

§ 1209.10 Capacity of public observers.

The public may attend open Board meetings for the sole purpose of observation. Observers may not participate in meetings unless expressly invited or otherwise interfere with the conduct and disposition of agency business. When a portion of a meeting is closed to the public, observers will leave the meeting room upon request to enable discussion of the exempt matter therein under consideration.

[FR Doc.77-34180 Filed 11-28-77;8:45 am]

[4810-25]

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

PART 4—EMPLOYEES' PERSONAL PROPERTY CLAIMS

Maximum Dollar Limit

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: To amend the Treasury Department's regulations at 31 CFR Part 4, "Employees' Personal Property Claims," by raising the maximum dollar limit the Department may pay in settlement of an employee's claim to conform with the Military and Civilian Employees Act of 1964, 31 U.S.C. 241-243, as amended by Section 1(a) of Pub. L. 93-455, October 18, 1974. The 1974 amendment raised the limit to $15,000.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald Levy, Attorney-Adviser, Office of the General Counsel, Department of the Treasury, Washington, D.C. 20220, telephone 202-566-2327.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 553(b) the Department finds that notice and public procedure are unnecessary as the regulations are being amended solely to conform with law.

Accordingly, Title 31 § 4.1 of the Code of Federal regulations is amended by deleting "$6,500" and by inserting "$15,000" in lieu thereof.

WILLIAM J. BECKHAM, Jr.,
Assistant Secretary, Administration.

NOVEMBER 22, 1977.

[FR Doc.77-34171 Filed 11-28-77;8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 821-8]

PART 205—NOISE EMISSION STANDARDS FOR MEDIUM AND HEAVY TRUCKS

Interim Warranty

AGENCY: Environmental Protection Agency.

ACTION: Interim Noise Emissions Warranty for Medium and Heavy Trucks.

SUMMARY: This notice is intended to notify all medium and heavy duty truck manufacturers of the Agency's determination that subject to the conditions set forth in the letter, manufacturers may offer the alternate warranty for incomplete vehicles pending final judicial resolution of the warranty issue.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard G. Kozlowski, Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460, 703-557-7470.

SUPPLEMENTARY INFORMATION: Copies of the letter presented below have been sent to all vehicle manufacturers subject to 40 CFR Part 205, Subpart B, Transportation Equipment Noise Emission Controls, Medium and Heavy Trucks ("the truck regulation"). The letter arose out of discussions with counsel for General Motors Corporation and International Harvester Company, parties to the ongoing litigation over the truck regulation. The letter sets forth an alternate warranty that may be used for incomplete vehicles on an interim basis by vehicle manufacturers subject to the truck regulation.

All vehicle manufacturers subject to the truck regulation may use the alternate warranty subject to the conditions set forth in the letter. Use of the alternate warranty constitutes acceptance of the conditions set forth in the letter.

The letter:

The Environmental Protection Agency has determined that, subject to the conditions set forth below, the attached language ("the alternate warranty") may be used for incomplete vehicles on an interim basis by vehicle manufacturers subject to the requirements of 40 CFR Part 205, Subpart B, to meet the requirement of the "Noise Emissions Warranty" as set forth in 40 CFR § 205.58-1 ("the existing warranty").

This alternate warranty may be used only on an interim basis, i.e., until no more than sixty (60) days following final judicial resolution of the warranty issue raised by General Motors and International Harvester in *Chrysler Corp. et al.* v. *EPA* (C.A.D.C. No. 76-1569, 76-1575, 76-1576, 76-1582), and only subject to the following conditions:

The alternate warranty may only apply to incomplete vehicles, i.e., those vehicles which, after they leave the vehicle manufacturer's control, have further manufacturing operations, other than the addition of readily attachable components, applied to them before they are ready for commercial use. The existing warranty must apply to all other vehicles.

If final judicial resolution of the warranty issue raised in the aforementioned litigation substantially affirms the scope of the existing warranty, then it is the responsibility of the vehicle manufacturer to notify those purchasers to whom the alternate warranty was provided that the existing warranty applies retroactively; specifically, that all warranty claims will be honored as if the existing warranty had been supplied to the ultimate purchaser at the time of sale.

Dated: November 23, 1977.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

INCOMPLETE VEHICLE NOISE EMISSIONS WARRANTY

[Name of vehicle manufacturer] warrants to the first person who purchases this vehicle for purposes other than resale and to each subsequent purchaser that this vehicle, as manufactured by [name of vehicle manufacturer] was designed, built and equipped to conform at the time it left [name of vehicle manufacturer]'s control with all applicable U.S. EPA Noise Control Regulations.

This warranty covers this vehicle as designed, built and equipped by [name of vehicle manufacturer], and is not limited to any particular part, component or system of the vehicle manufactured by [name of vehicle manufacturer]. Defects in design assembly or in any part, component or system of the vehicle as manufactured by [name of vehicle manufacturer], which at the time it left [name of vehicle manufacturer]'s control, caused noise emissions to exceed Federal

standards, are covered by this warranty for the life of the vehicle.[1]

[FR Doc.77-34243 Filed 11-28-77;8:45 am]

[4110-08]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 35—HOSPITAL AND STATION MANAGEMENT

Subpart E—Contributions for the Benefit of Patients

AGENCY: Public Health Service, Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: This rulemaking codifies hospital rules currently in practice in the Public Health Service. The language of Section 321 of the Public Health Service Act requires that rules concerning this section be made "pursuant to regulations." Section 321 provides, pursuant to regulations, for the control, management, and operation of all institutions, hospitals, and stations of the Service. Further, it provides that, pursuant to regulations, there will be care, treatment, and hospitalization of patients. The Public Health Service is often asked to accept contributions for the benefit of its patients from other patients, relatives of patients, employees, visitors, and the general public. These regulations govern the acceptance of such contributions, report of and accounting for contributions; define donors and acceptable contributions; and describe allowable expenditures of cash contributions.

EFFECTIVE DATE: These regulations are effective November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Lowell Peart, Building 31, room 3B07, 9000 Rockville Pike, Bethesda. Md. 20014, 301-496-4606.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 1, 1977 (42 FR 17500-17501) the Public Health Service proposed rules on contributions for the benefit of patients. Previously the means by which various installations of the PHS handled such contributions was left largely to their discretion. Procedures were described by various internal administrative issuances. In reviewing a proposed change in such an internal directive at the National Institutse of Health, the HEW Office of the General Counsel advised that Section 321 required such rules to be made pursuant to regulations.

Comments were invited on the proposed rules and one was received. The commenter asked whether the term "station" means something different than "hospital". The term is included to maintain consistency with Section 321 of the Public Health Service Act which states "The Surgeon General, pursuant to regulations, shall—(a) Control, manage, and operate all institutions, hospitals, and stations of the Service * * *" and to cover situations where there may be patients in a research station of the Service which is not connected with a hospital and is not an outpatient clinic. The commenter suggested that the paragraph on acceptance of contributions be reworded to make clear that the "officer in charge" refers to the person directly in charge of the hospital. The word "directly" will not be included because (1) this is inconsistent with the term "officer in charge" which is used uniformly throughout Part 35 and (2) its use may appear to set a limit on a matter of administrative delegation which is best left to the managers of individual PHS facilities. The commenter also called attention to two editorial errors. These have been corrected.

NOTE.—The Department of Health, Education, and Welfare 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: September 21, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 21, 1977.

HALE CHAMPION,
Acting Secretary.

Accordingly, Part 35 of Title 42 of the Code of Federal Regulations is amended by adding the following new subpart E.

Subpart E—Contributions for the Benefit of Patients

Sec.
35.61 Applicability.
35.62 Acceptance of contributions.
35.63 Report of and accounting for contributions.
35.64 Donors.
35.65 Acceptable personal property.
35.66 Expenditure of cash contributions.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended, 63 Stat. 835 (42 U.S.C. 216); sec. 321, 58 Stat. 695, as amended, 62 Stat. 1017 (42 U.S.C. 248).

Subpart E—Contributions for the Benefit of Patients

§ 35.61 Applicability.

This subpart sets forth the policies and procedures governing the acceptance and administration of contributions of money or property intended solely for the benefit of all patients in a ward or unit or a particular hospital or station of the Public Health Service, excluding outpatient clinics. Such contributions are distinguishable from (a) monies or other valuables belonging to specific patients which are accepted and held in custody for the convenience of the patient until such time as he or she wishes to withdraw them, and (b) gifts to the United States to support Public Health Service functions under section 501 of the Public Health Service Act or other statutory provisions, which may be accepted and administered only in accordance with such statutory provisions or other applicable laws.

§ 35.62 Acceptance of contributions.

(a) The officer in charge of a hospital or station or his delegate may accept contributions of money or personal property which are donated for the general benefit of all patients within the hospital or station (or a ward or unit thereof) without further specification or conditions as to use. Contributions tendered subject to conditions by the donor, such as expenditure or use only on behalf of certain patients or for specific purposes, may not be accepted.

(b) Contribution of money or property shall be accepted in writing.

§ 35.63 Report of and accounting for contributions.

(a) Contributions of money accepted pursuant to § 35.62 (hereinafter referred to as "patient fund") will be treated consistently with Federal deposit rules and as supplemented with appropriate procedures of the facility. This regulation is not intended to exclude contributions for the benefit of patients from proper accountability and control of funds and property.

(b) Contributions of property accepted pursuant to § 35.62 shall be recorded and accounted for in the same manner as other property of a similar kind maintained in the hospital or station, but with suitable identification so that it can be distinguished from government-owned property.

§ 35.64 Donors.

Authorized contributions may be accepted from patients, employees and other individuals, and agencies and organizations.

§ 35.65 Acceptable personal property.

Contributions of personal property which may be accepted pursuant to § 35.62 include, but are not limited to, recreational equipment, furniture, radios and television sets. After its useful life, any cash proceeds realized upon disposition of such property shall be deposited to the credit of the patient fund and shall be available for expenditure pursuant to § 35.66(c).

§ 35.66 Expenditure of cash contributions.

(a) Officials authorized to accept contributions shall not maintain control over the actual obligation or expenditure of such monies.

(b) Only those officers or employees specifically designated in writing by the officer in charge for such purpose may obligate and expend monies from the patient fund. The names of officials so designated shall be provided to the relevant fiscal control office.

(c) Subject to availiability of sufficient funds, monies in the patient fund may be expended for materials, services or activities which contribute to the well-being or morale of patients, including but

[1] The scope of this warranty is currently the subject of litigation. The coverage of this warranty may be broadened to extend to the completed vehicle, whether or not completed by [name of vehicle manufacturer], or the warranty may otherwise be altered, depending upon the outcome of the litigation.

not limited to provision of reading and entertainment materials, recreation activities, and, in appropriate cases, necessary financial support (including travel expenses, meals, and lodging) of relatives, guardians, or friends of patients to enable such persons to be available for the patient's comfort and support.

(d) Officers in charge may issue such additional instructions, not inconsistent with this subpart, as may be necessary to implement its provisions.

[FR Doc.77-34091 Filed 11-28-77;8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21362; RM-2881]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Louisa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Louisa, Virginia. The channel assignment will provide for an FM station which will furnish a first full-time local aural broadcast service to the community.

EFFECTIVE DATE: January 3, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: November 17, 1977.

Released: November 21, 1977.

In the matter of amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations (Louisa, Va.). Report and order (Proceeding Terminated) (42 FR 42700).

By the Chief, Broadcast Bureau. 1. The Commission herein considers the *Notice of Proposed Rule Making*, 42 FR 42700, in the above-captioned proceeding, instituted in response to a petition filed by Louisa County Broadcasting Co. ("petitioner"). The petition proposed the assignment of Channel 288A as a first FM channel to Louisa, Virginia. Petitioner filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned.

2. Louisa (pop. 633), seat of Louisa County (pop. 14,044)[1] is located approximately 80 kilometers (50 miles) northwest of Richmond, and 40 kilometers (25 miles) east of Charlottesville, Va. There is no local aural broadcast service in Louisa or Louisa County. Channel 288A could be assigned to Louisa in conformity with the minimum distance separation requirements.

3. In support of its proposal, petitioner submitted information with respect to Louisa and its need for a first full-time local aural broadcast service. It expects to provide service to 20,500 people, of whom 8,200 would be receiving their second FM service.

4. We have given careful consideration to the proposal and believe that Channel 288A should be assigned to Louisa, Virginia. An interest has been shown for its use, and it would be in the public interest as it would provide the community and Louisa County with a first local aural broadcast service and the area with a needed additional service.

5. Authority for the adoption of the amendment contained herein appears 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 of the Commission's Rules.

6. Accordingly, *it is ordered*, that effective January 3, 1978, section 73.202 (b) of the Commission's Rules, the FM Table of Assignments, is amended as it pertains to the community listed below:

City:	*Channel No.*
Louisa, Va	288A

7. *It is further ordered*, that this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-34212 Filed 11-28-77;8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the Atlantic Salt Marsh Snakes as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Atlantic salt marsh snake (*Nerodia fasciata taeniata*) to be a Threatened species. This action is being taken because of the threats of habitat modification and resulting hybridization, and provides Federal protection for the species. The Atlantic salt marsh snake is known only from coastal areas of Brevard, Volusia, and Indian River Counties in Florida.

DATES: This rule becomes effective on December 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 2, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 28165-28166) advising that sufficient evidence was on file to support a determination that the Atlantic salt marsh snake was a Threatened Species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq. That proposal summarized the factors thought to be contributing to the likelihood that this snake could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to Governor Askew of the State of Florida on June 17, 1977, notifying him of the proposed rulemaking for the Atlantic salt marsh snake. On this same date, a memorandum was sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties.

No official comments were received from Governor Askew. However, Colonel R. M. Brantley replied for the Florida Game and Fresh Water Fish Commission and indicated full support for the proposal as published in the FEDERAL REGISTER.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife and Plants.

In the June 2, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 28165-28166) and associated June 7, 1977, Press Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period June 2, 1977, to September 23, 1977, were considered.

In addition to the comments received from Colonel Brantly, comments were received from eight individuals and representatives of various organizations.

F. Wayne King (N.Y. Zoological Society) commented on behalf of the staff of the Society and supported the pro-

posal as published in the FEDERAL REGISTER. He added that the extensive use of chlorinated hydrocarbons and petroleum distillates have detrimental effects on reptiles and pose a threat to the continued existence of the Atlantic salt marsh snake.

William A. Butler, representing the Environmental Defense Fund, supported the proposal but suggested an Endangered status and recommended Critical Habitat to include coastal areas of Brevard, Volusia, and Indian River Counties. James N. Layne (Archbold Biological Station) also questioned whether an Endangered status would be more appropriate and noted that the Technical Advisory Committee on endangered species of the Florida Game and Fresh Water Fish Commission recommended that this species be listed as Endangered on the Federal list.

Alfred Gardner, Acting Director of the National Fish and Wildlife Laboratory, made general comments on the status of the Atlantic salt marsh snake. He supported Threatened status and suggested Critical Habitat be proposed to include brackish creeks, marshes, swamps, and wetlands from National Gardens to Vero Beach.

Roy W. McDiarmid (University of South Florida) made general comments on the status of this species and Ray Ashton (North Carolina State Museum of Natural History) indicated that in his opinion, Endangered status is warranted.

Howard Kochman (National Fish and Wildlife Laboratory) included a copy of a report previously submitted to the Office of Endangered Species on the distribution and status of this species. He emphasized careful management of coastal ecosystems and the designation of Critical Habitat (New Smyrna barrier island of Volusia County) as of primary importance to the continued survival of this species. He indicated that hybridization with *N. f. pictiventris* is a main concern rather than generally referring to "adjacent species of salt marsh snakes".

Richard Demner (Florida Technological University) provided comments on the status of the Atlantic salt marsh snake and provided information on morphology and distributional records.

CONCLUSION

Although no one commented on it, the name *Natrix* for North American species of water snakes has recently been changed to *Nerodia* since the proposal appeared in the FEDERAL REGISTER. Consequently, this final rulemaking refers to the Atlantic salt marsh snake as *Nerodia fasciata taeniata*.

Although the State of Florida lists the Atlantic salt marsh snake as Endangered, and several individuals have indicated that the Federal Government should also list it as Endangered, a careful examination of the available data indicates that the status of this species does not fit the definition of an Endangered species under the Endangered Species Act of 1973. An Endangered species is defined by the Act as one which is in danger of extinction throughout all or a significant portion of its range; a Threatened species is one that is likely to become Endangered within the foreseeable future. Although the threats to the snake (habitat alteration and hybridization) are serious, the species is not in danger of becoming extinct at the present time. On the other hand, if the threats continue to be operational, the snake is likely to become an Endangered species within the foreseeable future. Because of this, the Service has determined the Atlantic salt marsh snake to be a Threatened species rather than an Endangered species.

After a thorough review and consideration of all the information available, the Director has determined that the Atlantic salt marsh snake is threatened with becoming Endangered throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act. This review amplifies and substantiates the description of those factors and are described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* This rare snake has a small range within which there is a very limited amount of remaining habitat. The coastal salt marsh and brackish-water areas, to which this form is restricted, have been the object of intensive drainage and development. If habitat destruction continues, this snake may be extirpated from the Florida coastal herpetofauna. Although the historical range of this species has probably changed only slightly, habitat destruction is believed to have caused a decline in the numbers of snakes.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

3. *Disease or predation.* Unknown.

4. *The inadequacy of existing regulatory mechanisms.* This species has recently been classified as Endangered by the State of Florida. Listing the species as Threatened under the Endangered Species Act of 1973 will afford it additional protection.

5. *Other natural or manmade factors affecting its continued existence.* Alteration of the coastal marsh ecosystem has led to the direct decline of available habitat of this species. It has also led to the breakdown of the ecological isolating mechanisms separating the various races of salt marsh snakes along the coast of Florida. Therefore, hybridization with *Nerodia fasciata pictiventris*, as a result of man's activities, could cause a further decline in the viable numbers of this unique species.

EFFECT OF THE RULEMAKING

Section 7 of the Act provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of the Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of Section 7 of the Act. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868–4875) to assist Federal agencies in complying with Section 7.

Although no Critical Habitat has yet been determined for this species, the other provisions of Section 7 are applicable.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations referred to above, which pertain to Endangered and Threatened species, are found at §§ 17.21 and 17.31 of Title 50 and are summarized below.

With respect to the Atlantic salt marsh snake in the United States, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR Part 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), codified in 50 CFR Part 17, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review the Atlantic salt marsh snake to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether it should be considered under other appropriate international agreements.

NATIONAL ENVIRONMENT POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addesses this action as it involves the Atlantic salt marsh snake. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202/343/7814).

REGULATION PROMULGATION

Accordingly, § 17.11 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding the Atlantic salt marsh snake to the list, alphabetically, under "Reptiles" as indicated below:

§ 17.11 Endangered and threatened wildlife and species.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Reptiles: Snake, Atlantic salt marsh	*Nerodia fasciata taeniata.*	NA	U.S.A. (Florida)	Entire	T	30	NA

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: November 21, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77-34121 Filed 11-28-77;8:45 am]

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Six positions of Area Coordinator, Farmers Home Administration, are excepted under Schedule C and one position of Confidential Assistant to the Administrator, Rural Development Service is reestablished under Schedule C because they are confidential in nature. In addition, due to a Department reorganization, the headnote for Rural Development Administration is changed to Rural Development Service.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3313(f)(6) and (t)(1) are added and the headnote of (t) is amended as follows:

§ 213.3313 Department of Agriculture.

* * * * *

(f) *Farmers Home Administration.*

* * *

(6) Six Area Coordinator.

* * * * *

(t) *Rural Development Service.* (1) Three Confidential Assistants to the Administrator.

* * * * *

(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.77-34024 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Two positions of Special Assistant to the Chairman, one position of Secretary (Stenography) to the Chairman, and one position of Staff Assistant to the Special Assistant to the Chairman (for Constituency Liaison) and the Special Assistant to the Chairman (for Policy) are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3382(e) is amended and (k) and (l) are added as set out below:

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * *

(e) Four Special Assistants to the Chairman of the National Endowment for the Humanities.

* * * * *

(k) One Secretary (Steno) to the Chairman of the National Endowment for the Humanities.

(l) One Staff Assistant to the Special Assistant to the Chairman (for Constituency Liaison) and the Special Assistant to the Chairman (for Policy), National Endowment for the Humanities.

(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.77-34026 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Small Business Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One additional position of Special Assistant to the Deputy Administrator is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3332(t) is amended as set out below:

§ 213.3332 Small Business Administration.

* * * * *

(t) Two Special Assistants to the Deputy Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

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

[FR Doc.77-34027 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One Secretary (Stenography) to the Assistant Secretary for Human Rights and Humanitarian Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(bb) is added as set out below:

§ 213.3304 Department of State.

* * * * *

(bb) *Office of the Assistant Secretary for Human Rights and Humanitarian*

Affairs. (1) One Secretary (Stenography) to the Assitant Secretary.

(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.77-34250 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One Confidential Assistant to the Director, Women's Bureau, is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3315(f)(2) is amended as set out below:

§ 213.3315 Department of Labor.

* * * * *

(f) *Women's Bureau.* * * *

(2) Two Special Assistants and one Confidential Assistant to the Director.

(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.77-34249 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One Special Assistant to the Assistant Administrator for Planning and Management is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3318(f) is added as set out below:

§ 213.3318 Environmental Protection Agency.

* * * * *

(f) *Office of the Assistant Administrator for Planning and Management.* (1) One Special Assistant to the Assistant Administrator.

(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.77-34246 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Export-Import Bank

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Senior Vice President of Research and Communications is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3342(v) is added as set out below:

§ 213.3342 Export-Import Bank.

* * * * *

(v) One Special Assistant to the Senior Vice President, Research and Communications.

(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.77-34247 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The positions of Special Assistant to the Assistant Secretary for Neighborhood Organizations, Voluntary Associations and Consumer Protection and Director, Office of Neighborhood Development, are excepted from the competitive service under Schedule C because they are confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3384(1)(2) and (3) are added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(1) *Office of the Assistant Secretary for Neighborhood Organizations, Voluntary Associations, and Consumer Protection.* * * *

(2) One Special Assistant to the Assistant Secretary.

(3) Director, Office of Neighborhood Development.

(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.77-34248 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Regional Commissions, Public Works and Economic Development Act of 1965

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The positions of Special Assistant (for Federal/State Liaison) to the Federal Cochairman, New England Regional Commission, is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3386(e) is added as set out below:

§ 213.3386 Regional Commissions, Public Works and Economic Development Act of 1965.

* * * * *

(e) One Special Assistant (for Federal/State Liaison) to the Federal Cochairman, New England Regional Commission.

(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.77-34245 Filed 11-28-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One additional position of Confidential Assistant to the Administrator (Agricultural Marketing Service) is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3313 (m)(3) is amended as set out below:

§ 213.3313 Department of Agriculture.

* * * * *

(m) *Agricultural Marketing Service.*

* * *

(3) Three Confidential Assistants to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 216.)

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

[FR Doc.77-34377 Filed 11-28-77;11:46 am]

proposed rules

[3410–15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA Splicing Standard PC–2 for Splicing Plastic-Insulated Cables

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 345–6 to announce the revision of REA Splicing Standard PC–2 for Splicing Plastic-Insulated Cables. This revision is needed to introduce standard methods for handling and splicing filled cables and wires within Serving Area Interface (SAI) Housing used within the Serving Area Value Engineering (SAVE) concept of designing telephone systems. The effect of this action will be to standardize handling and splicing practices to improve overall performance and minimize cost. On issuance of REA Bulletin 345–6, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than December 29, 1977.

ADDRESS: Persons interested in the revision of REA Splicing Standard PC–2 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 345–6. A copy of the proposed revised REA Splicing Standard PC–2 may be secured in person or by written request from the Director, Telephone Operations and Standards Division. The text of the revised REA Bulletin 345–6 announcing the issuance of revised REA Splicing Standard PC–2 is as follows:

REA BULLETIN 345–6

SUBJECT: REA SPLICING STANDARD PC–2

I. *Purpose.* To announce a revision of REA Splicing Standard PC–2.

II. *General.* The primary changes in REA Splicing Standard PC–2 involve the introduction of methods for handling and splicing filled cables and wires within Serving Area Interface (SAI) housings used within the Serving Area Value Engineering (SAVE) concept of designing telephone systems.

The revised standard PC–2 becomes effective immediately and when referenced by the date of this issue in REA Form 511.

III. *Availability of standard.* Copies of the revised Standard PC–2 will be furnished by REA upon request. Questions concerning this newly revised standard may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3827.

Dated: November 22, 1977.

C. R. BALLARD,
Assistant Administrator, Telephone.

[FR Doc.77–34264 Filed 11–28–77;8:45 am]

[3410–15]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed New REA Specification for Serving Area Interface Housings

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to issue REA Bulletin 345–77 to announce the issuance of REA Specification PE–79 for Serving Area Interface Housings. This specification is needed to provide guidelines for the development of housings designed for Serving Area Value Engineering (SAVE) applications. The effect of this action will be to standardize Serving Area Interface Housings to provide uniform performance characteristics and to minimize cost. On issuance of REA Bulletin 345–77, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than December 29, 1977.

ADDRESS: Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telehpone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345–77. A copy of the new REA Specification PE–79 may be secured in person or by writteen request from the Director, Telephone Operations and Standards Division. The text of the new REA Bulletin 345–77 announcing the issuance of the new REA Specification PE–79 is as follows:

REA BULLETIN 345–77

I. *Purpose.* To announce the issuance of a new REA Specification PE–79 for Serving Area Interface Housings.

II. *General.* REA Specification PE–79 has been developed to cover performance requirements for Serving Area Interface (SAI) housings designed for Serving Area Value Engineering (SAVE) applications as discussed in REA TE&CM Section 648, "Serving Area Value Engineering (Physical Plant)," and REA TE&CM Section 629, "Cable Plant Layout—Serving Area Value Engineering for Rural Systems." The housings produced to meet these requirements are expected to provide the necessary installation and maintenance features as well as long-term perfromance stability. This new specification will become effective upon issuance.

III. *Availability of specifications.* Copies of the new PE–79 will be furnished by REA upon request. Questions concerning the new specification may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3827.

Dated: November 22, 1977.

C. R. BALLARD,
Assistant Administrator, Telephone.

[FR Doc.77–34265 Filed 11–28–77;8:45 am]

[3410-15]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revised REA Checklist for Supplemental Loan Proposals or Area Coverage Designs

AGENCY: Rural Electrification Administration, USDA

ACTION: Proposed rule.

SUMMARY: REA proposes to reissue REA Bulletin 360-1 to announce the revision of REA Form 567, the checklist for review of supplemental loan proposals and area coverage designs. The revised checklist is essential to achieve consistency with recent changes which have occurred in the telephone system design concepts of the Rural Electrification Administration. As revised, it will also facilitate the review of supplemental loan proposals and area coverage designs to insure that they reflect the appropriate changes in the concepts. On issuance of REA Bulletin 360-1, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than December 29, 1977.

ADDRESS: Persons interested in the revised checklist may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony H. Flores, Acting Chief, Systems Engineering Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3917.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to reissue REA Bulletin 360-1. A copy of the revised REA Form 567 may be secured in person or by written request from the Director, Telephone Operations and Standards Division: The text of the reissued REA Bulletin 360-1 announcing the revision of the REA Form 567 is as follows:

REA BULLETIN 360-1

SUBJECT: CHECKLIST FOR REVIEW OF A SUPPLEMENTAL LOAN PROPOSAL OR AN AREA COVERAGE DESIGN

I. *Purpose.* To issue revised REA Form 567, "Checklist for Review of a Supplemental Loan Proposal or Area Coverage Design."

II *General.* A. The checklist attached is intended to assist engineers in preparing, and borrowers and REA personnel in evaluating Supplemental Loan Proposals (SLP) or Area Coverage Designs (ACD). The borrower's engineer should refer to the checklist for guidance in preparing and completing the information and data required. One copy of the checklist completed and signed by the borrower's engineer should be attached to the SLP or ACD submitted to the REA field engineer.

B. The checklist conforms to REA Bulletin 320-14, "Loans for Telephone Systems Improvements and Extensions," dated May 24, 1971, and to REA TE & CM 205, "Preparation of an Area Coverage Design," Issue No. 5, dated May 1971. This revision also brings the checklist into conformance with REA TE & CM Sections 230, 231, and 232 which cover Serving Area Value Engineering (SAVE). Further, it provides for certification that SAVE was considered as required by the memorandum dated May 10, 1977, entitled, "Implementation of Revised System Design Guidelines", which was issued to be filed with REA Bulletin 320-14.

C. The objectives of SAVE are to achieve lower construction costs, considering initial and annual costs, through the use of physical plant and electronic pair gain equipment. Application of the concept also depends on the determination of growth rate on individual cable leads being classified as utilizing appropriate cable fills thus providing the most economical choice of cable sizes or pair gain devices.

D. Additional copies of REA Form 567 will be furnished upon request.

Dated: November 22, 1977.

C. R. BALLARD,
Assistant Administrator,
Telephone.

[FR Doc.77-34266 Filed 11-28-77;8:45 am]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

LEASING OF PERSONAL PROPERTY

Limitations on National Banks

AGENCY: Comptroller of the Currency.

ACTION: Proposed rule.

SUMMARY: This proposed interpretive ruling sets forth the requirements and limitations on national banks engaged in the leasing of personal property. Since present rulings may not adequately deal with leasing activities which have been developing in recent years, to Comptroller intends to clarify and define the conditions under which a national bank may engage in certain leasing activities.

DATE: Comments must be received on or before December 29, 1977.

ADDRESS: Comments in duplicate to: Mr. John E. Shockey, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Thomas P. Vartanian, Staff Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, 202-447-1885.

SUPPLEMENTARY INFORMATION: On June 3, 1975, the Comptroller of the Currency published a proposed amendment of an interpretative ruling (40 FR 23874) governing the leasing of personal property by national banks (12 CFR 7.3400). That proposed amendment interpreted personal property leasing transactions to be extensions of credit subject to the limitations of 12 U.S.C. 84 and required that the transaction return to the bank its full investment in the leased property.

The Comptroller received 33 comments in response to the proposed changes; however, further action on the proposed ruling was delayed because of pending legal and accounting developments in the field of leasing. These included:

(1) Passage by Congress of the Consumer Leasing Act of 1976, 15 U.S.C. 1667 et seq.;

(2) Hearings by the Federal Reserve Board on whether automobile leasing should continue to be a permissible activity for bank holding companies under Regulation Y, 12 CFR 225.4(a)(6); and

(3) Adoption of Financial Accounting Standards No. 13 dealing with accounting for leases by the Financial Accounting Standards Board.

A large number of the comments received expressed disagreement with some portion of the proposed ruling. Several commenters raised questions or made suggestions which, when studied in light of the recent developments in the field of leasing, have convinced the Comptroller that a number of changes in the original proposed interpretive ruling (40 FR 23874) are warranted.

DISCUSSION OF MAJOR COMMENTS

Should Leasing of Personal Property by National Banks be Subject to the Limitations of 12 U.S.C. 84?

Several commenters objected to the statement that leases should be considered extensions of credit subject to the lending limitations imposed by 12 U.S.C. 84. After considering the issues raised by these comments, the Comptroller believes that the type of leases permitted by this section do have many of the characteristics attributable to a loan and do serve a similar purpose as other forms of bank financing. However, the Comptroller feels that the wording of the original proposed ruling should be revised to clarify the applicability and limitations of this principle.

Leases can be an alternative financing device which result in the investment or transfer of bank funds based upon the credit-worthiness of the lessee. Full-payout net leases, as described by this section, are of such a nature. They involve financial risks similar to those inherent in a loan transaction and, therefore, should be subject to laws and regulations that seek to limit or avoid those risks that can threaten the soundness of the bank. Consequently, national banks which are the owners and lessors of leased personal property should consider the leases to be "obligations" of the lessee as that term is used in 12 U.S.C. 84. In addition,

since 12 U.S.C. 371c is also designed to preserve the financial soundness of the bank by limiting obligations of the bank's affiliates to it, the Comptroller believes that full-payout net leases should be subject to the limitations of that section also.

This position should not be interpreted as equating leases and loans since it has historically been the Comptroller's opinion that there are numerous financial transactions which are "obligations" but which are not loans. Specific evidence of this position, as it relates to leases, can be found in the Comptroller's previous interpretations and applications of 12 U.S.C. 84(13) (See 12 CFR 7.1630).

Similarly, it should be noted that the Legal Division of the Federal Reserve Board has determined that full-payout net leases are subject to the limitations of 12 U.S.C. 375a since they are substantively direct or indirect obligations to pay money, whereby the lessor assumes the usual risks present in a credit transaction and the lessee agrees to repay, through rental and residual payments, the cost of the property plus the cost of financing the property over the term of the lease.

On the other hand, laws such as 12 U.S.C. 85 and 86, which establish standards and penalties for usury, deal with typically loan-related problems which do not directly attempt to protect the soundness of the bank by limiting the financial risks which arise from excessive obligations to it. Therefore, the Comptroller believes that leases permitted by this section should not be subject to these two sections of the National Bank Act.

Additionally, the Comptroller believes that it is consistant to require that full-payout net leases be considered in the bank's calculation of its reserve for possible loan losses in preparing consolidated reports of condition and reports of income.

What Amount or Value of the Lease Should be Included in The Bank's Lending Limitations?

Several commenters asked how lease values should be computed for the purpose of determining lending limitations under 12 U.S.C. 84. In addition, one commenter suggested that a separate lease limitation be established apart from the current lending limitations imposed by § 84. The Comptroller believes that for the purpose of computing lending limitations and filing financial statements with this Office, leases may be treated in accordance with generally accepted accounting principles and practices applicable to banks. However, the Comptroller may from time to time issue instructions on accounting principles and practices to be used in specific cases. Because the financial risks inherent in leases and loans are similar the Comptroller does not agree that a separate limitation should be established for each of these two types of obligations. There is no specific statutory authority which provides for such a result.

Should This Interpretive Ruling Apply to Leases Currently in Effect?

Many commenters suggested that adoption of the original proposed ruling would cause banks to be in immediate violation since the required combination of loans and leases would exceed lending limitations in certain circumstances. To avoid this possibility, the Comptroller is proposing that the final interpretive ruling only apply to leases entered into on or after the date 30 days after it is published in the FEDERAL REGISTER, unless another date is specifically designated at that time. A national bank may also renew any lease not satisfying the requirements of the ruling which was entered into in good faith prior to the date of adoption only if there is a binding agreement in the expiring lease which requires the bank to renew it at the lessee's option, and the bank cannot otherwise reasonably or properly avoid its commitment to do so.

To What Extent Should Banks be Allowed to Rely on the Residual Value of Leased Property to Meet the Requirements of a Full-Payout Lease?

The Comptroller received a wide variety of suggestions concerning this question. After considering all of the comments and the Federal Reserve Board's Regulation at 12 CFR 225.4(a)(6), the Comptroller believes that where the residual value of leased property is not otherwise guaranteed by the lessee or a third party, national banks may rely upon that value to calculate the return of their full investment and the cost of handling for the purpose of structuring a full-payout lease. However, the residual value must be reasonable and must not exceed 25 percent of the original cost of the property to the lessor. A modification of the prudent banking standard of the original proposed ruling was considered necessary in order to give banks a flexible and yet determinable standard to follow. In this respect, the Comptroller has studied the current guidelines of the Internal Revenue Service, Rev. Proc. 75–28, 1975–18 I.R.B. 21 at 15, and the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 13, November 1976, in order to ensure that national banks have the option to consistently characterize a transaction as a lease in either financial reports or tax returns. The Comptroller believes that this new proposed standard is the best alternative available at this time to measure lease agreements in terms of the business of banking.

DISCUSSION OF MISCELLANEOUS COMMENTS

The Comptroller does not agree that the proposed ruling would be improved as suggested by some commenters and has rejected the following suggestions:

(1) That leveraged leases be excluded from this ruling since they are more sophisticated and complex financial transactions which present unique accounting problems. The position of a bank as an equity participant in a leveraged lease is adequately covered by the general requirements of this proposed ruling.

(2) That leasing is a mercantile rather than a financial transaction and should not be considered incidental to the business of banking. Judicial and administrative decisions have consistently held that leasing of personal property under controlled conditions functionally resembles a loan and may serve a similar purpose as other forms of bank financing.

(3) That the exception which allows full-payout calculations on leases of personal property to governmental entities to take future transactions or renewals into consideration should be eliminated. A footnote has been included in the ruling to indicate that this exception is considered necessary because some federal, state and local governmental entities may not be permitted to enter into a lease commitment with a term in excess of one year.

OTHER CHANGES IN THE ORIGINAL PROPOSED RULING CONSIDERED NECESSARY BY THE COMPTROLLER

After reviewing developments in the field of leasing since publication of the original proposed amendment to § 7.3400 (40 FR 23874), the Comptroller believes that this ruling should include:

(1) A definition of the term "net lease" to provide national banks with standardized guidelines.

(2) A provision allowing a national bank to take reasonable and appropriate action to protect itself from loss after execution of the lease where its financial position as the lessor of a full-payout net lease is jeopardized by a significant unanticipated increase in its exposure to loss, such as the insolvency or default of the lessee. Such action may include the operating, servicing or repairing of the property to protect the bank's investment by ensuring that the property will continue to maintain its fair market value.

(3) A statement indicating that the provisions of this ruling shall not be construed to be in conflict with, or otherwise avoid, duties and liabilities imposed by the Consumer Leasing Act of 1976, 15 U.S.C. 1667 et seq.

(4) A statement reserving the right of the Comptroller to make leases subject to any other laws, rules or regulations which limit potential financial risks associated with obligations and various forms of bank financing.

(5) A statement indicating that the selection of residual values at unreasonable levels shall be considered and unsafe and unsound banking practice which may subject the bank to administrative action by the Comptroller's Office if it cannot be shown that, at the time of such selection, the bank made a good faith effort to be accurate and reasonable.

(6) An exemption from the ruling's requirements in the situation where a national bank has purchased or otherwise become the assignee or transferee of dealer-originated lease agreements from independent lessors and later finds it necessary to become the owner and lessor

of the property to protect its investment where there has been a significant unanticipated increase in its exposure to loss. For instance, where insolvency of either the lessor, the lessee or both occurs, and where there is a breach or threatened breach of the lease's terms, the bank may act to protect its investment by becoming the owner and lessor of the property pursuant to its contractual rights. In addition, if necessary, it may take appropriate action to ensure that the property will continue to maintain its fair market value, such as operating, servicing or repairing it.

REPUBLICATION FOR COMMENT

The Administrative Procedure Act does not require notice and solicitation of comments in connection with interpretive rules (5 U.S.C. 553(b)), and it permits them to become effective immediately (5 U.S.C. 553(d)). However, in view of the events which have occurred since first publication of the proposed amendment, and in consideration of the Comptroller's desire to solicit public participation in the rulemaking process, the Comptroller has elected to again afford an opportunity for comment on this proposed interpretation. Comments should be sent in duplicate to Mr. John E. Shockey, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, by December 29, 1977.

DRAFTING INFORMATION

The principal drafter of this document is Mr. Thomas P. Vartanian, Staff Attorney, Legal Advisory Services Division.

PROPOSED RULING

In consideration of the foregoing, it is proposed to amend Part 7 of 12 CFR by revising § 7.3400 to read as follows:

§ 7.3400 Leasing of personal property.

(a) A national bank may become the owner and lessor of personal property only for the use of its customer and only at the specific request of that customer. It may lease this property and incur such additional obligations as may be incidental to becoming an owner and lessor of such property only if the lease is:

(1) A net lease, and

(2) A full-payout noncancelable obligation of the lessee.

(b) For the purpose of this ruling:

(1) A "net lease" is a lease under which the bank will not, directly or indirectly, provide or be obligated to provide for any of the following:

(i) The operation, servicing, repair or maintenance of the leased property during the lease term; or

(ii) The purchasing of parts and accessories in bulk or the purchasing of an individual piece of property after the lessee has taken delivery of such property; or

(iii) The loan of replacement property during servicing of the leased property after the lessee has taken delivery of such property; or

(iv) The purchasing of insurance for the lessee; or

(v) The licensing or registration of the property merely as a service for the lessee where the lessee could license or register the property without the authorization of the lessor.

(2) A "full-payout" lease is one which will serve a similar purpose as other forms of bank financing, and one from which the lessor expects to realize, from the following sources, a return of its full investment in the leased propery plus the estimated cost of financing the property over the term of the lease:

(i) Rentals;

(ii) Estimated tax benefits; and

(iii) The estimated residual value of the property at the expiration of the initial term of the lease; however, the estimated residual value shall not exceed 25 percent of the original cost of the property to the lessor. As an alternative to this test, residual values may be set at any level where the bank receives a guaranty of the residual value from the manufacturer, the lessee, or a third party, which is not an affiliate of the bank, and where it has determined that the guarantor has the resources to meet the guaranty. In all instances where the bank estimates and uses the residual value of leased property to satisfy the requirements of a full-payout lease, the estimated value must be reasonable so that the banks primary risk in the overall transaction depends on the creditworthiness of the lessee and not on the market value of the leased item. The selection of residual values at unreasonable levels shall be considered an unsafe and unsound banking practice if it cannot be shown that, at the time of such selection, the bank made a good faith effort to be accurate and reasonable.

(c) Full-payout calculations on leases of personal property to governmental entities may be based on reasonably anticipated future transactions or renewals.[1]

(d) If, in good faith, a national bank believes that there has been a significant unanticipated change in conditions which threatens its financial position by increasing its exposure to loss, and, if its interest in the property is sufficient to justify such action, the limitations contained in subsections (a) and (b) of this section shall not prevent the bank,

(1) As the lessor under a full-payout net lease, from taking any reasonable and appropriate action to salvage or protect the value of the property to prevent such loss after execution of the lease, or

(2) As purchaser, assignee or transferee of the lessor's interest in the lease, from becoming the owner and lessor of the leased property without the specific request of a customer even if the lease is not a full-payout net lease, and, thereafter, from taking any reasonable and appropriate action to salvage or protect the value of the property to prevent such loss.

(e) The limitations contained in subsections (a) and (b) of the section shall not prohibit a national bank from including any provisions in a lease, or from making any additional agreements to protect its financial position and investment in the circumstances set forth in subsections (d) (1) and (2) of this ruling.

(f) Nothing in this section shall be construed to be in conflict with the duties and liabilities imposed by the Consumer Leasing Act of 1976, 15 U.S.C. 1667 et seq.

(g) Leases permitted by this section are subject to the limitations of 12 U.S.C. 84 and 371c. The Comptroller of the Currency reserves the right to determine that leases permitted by this section are also subject to the limitations of any other law or ruling which limits potential financial risks associated with obligations and other forms of bank financing.

(h) This section shall not apply to any leases executed prior to December 29, 1977. Any lease which was entered into in good faith prior to such date which does not satisfy the requirements of the ruling may be renewed without violating this section only if there is a binding agreement in the expiring lease which requires the bank to renew it at the lessee's option, and the bank cannot otherwise reasonably or properly avoid its commitment to do so.

Dated: November 15, 1977.

JOHN G. HEIMANN,
Comptroller
of the Currency.

[FR Doc.77-34241 Filed 11-28-77;8:45 am]

[1] The Comptroller has noted 12 CFR 225.4 (a)(6)(d), n. 4, and understands that some federal, state and local governmental entities may not enter into a lease for a period in excess of one year. This does not prohibit a bank from entering into a lease with such governmental entity if the bank reasonably anticipates that that entity will renew the lease annually until such time as the bank realizes a return of its full investment in the property plus its cost of leasing the property.

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA Regulations governing small business investment companies (SBICs) prohibits any Licensee from maintaining more than one-third of its Portfolio investments in real estate concerns. This proposal would further prohibit investments in small concerns engaged in motion picture production and distribution, to an extent greater than one-third of a Licensee's Portfolio. Existing Licensees will thus be barred from becoming specialists concentrating more than one-third of their investments in motion pictures. Licensing of new SBICs as motion picture specialists will be governed by the Agency's Statement of Gen-

eral Policy establishing a Pilot Program for that purpose and accompanying this Notice of Proposed Rulemaking.

Upon adoption, SBA intends to promulgate the amendment to § 107.101(c), effective as of the publication date of the present proposal.

DATES: Comments must be received on or before December 29, 1977.

ADDRESS: Comments in triplicate to: Associate Administrator for Finance and Investment, Small Business Administration, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, telephone 202-653-6584.

Notice is hereby given that pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, as amended, it is proposed to amend, as set forth below, § 107.101(c) of Part 107, Chapter I, Title 13 of the Code of Federal Regulations.

Section 107.101(c)(1) would be amended to read as follows:

§ 107.101 Operational requirements.

* * * * *

(c) *Diversified investment policy—real estate and motion pictures.* Unless specifically authorized in writing by SBA:

(1) *General rule.* No Licensee shall maintain more than one-third of its Portfolio, as of the close of any full fiscal year, in (i) permitted Real Estate Investments or (ii) investments in small concerns engaged in motion picture production and distribution (classified under Industry Nos. 7813, 7814, 7823 and 7824 of the SIC Manual. For further provisions governing Real Estate Investments, see § 107.1001(c). For Statement of General Policy concerning motion picture specialist-Licensees, see 42 FR 60729, November 29, 1977.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 17, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-34198 Filed 11-28-77;8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1013]

PUBLICATIONS AND PUBLICITY

Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of Comment Period.

SUMMARY: The Consumer Product Safety Commission extends the time for submission of written comments on the proposed procedures for applying section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) to agency publications and publicity, from November 21, 1977, to December 21, 1977. The Commission is extending the time to provide interested persons an adequate opportunity to comment on the proposed procedures.

DATE: Comments on or before December 21, 1977.

ADDRESS: Written comments should be submitted to the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Jeanette Wiltse, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, 202-634-7770.

SUPPLEMENTARY INFORMATION: On October 5, 1977, the Consumer Product Safety Commission proposed procedures for application of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) to agency publications and publicity (16 CFR Part 1013, 42 FR 54304, October 5, 1977). The proposal specified that written comments should be submitted on or before November 21, 1977. On November 14, 15 and 16 requests for extension of time were received from the American Retail Federation, Montgomery Ward & Co., and Sears, Roebuck & Co. The extension of time was requested because the comment periods for several proposed Commission actions were overlapping, and commenters found the time insufficient for simultaneously commenting on all. In order to provide these commenters and other interested persons a full opportunity to comment on the proposed procedures, the Commission extends the written comment period until December 21, 1977.

Dated: November 22, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-34167 Filed 11-28-77;8:45 am]

[6355-01]

[16 CFR Parts 1304, 1305]

RESPIRABLE FREE-FORM ASBESTOS

Proposal To Ban Certain Patching Compounds and Artificial Emberizing Materials (Embers and Ash) Containing Respirable Free-Form Asbestos—Extension of Time

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time.

SUMMARY: This notice extends to December 12, 1977, the period in which the Commission must either publish in the FEDERAL REGISTER a consumer product safety rule to declare that two consumer products containing respirable free-form asbestos are banned hazardous products under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), or withdraw the rules proposed on July 29, 1977.

DATE: Deadline for publication of regulation or withdrawal of proposed rule is December 12, 1977.

FOR FURTHER INFORMATION CONTACT:

John Liskey, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: On July 29, 1977, the Commission published in the FEDERAL REGISTER (42 FR 38783) a proposal to ban consumer patching compounds and artificial emberizing material (embers and ash) containing respirable free-form asbestos. Based on information discussed in the proposal, the Commission stated its preliminary determination that inhalation of asbestos fibers released during the use of these products, presents an unreasonable risk of injury to the public of certain types of cancer, including lung cancer and mesothelioma. The Commission also preliminarily determined that no feasible standard under the CPSA could adequately protect the public from the unreasonable risk of injury associated with these products.

In response to the proposal, more than 30 comments were received. On October 4, 1977 (42 FR 53970) the Commission announced an extension of time, to November 28, 1977, for consideration of these comments. Analysis of some of the comments required assistance of experts outside the Commission. This process took some time longer than had been anticipated and, as a result, the staff briefing package on the comments and the final rules, were somewhat delayed. To make up for this delay and in order to permit the necessary time for Commission evaluation of these materials, the Commission announces a two-week extension of time.

Accordingly, pursuant to section 9(a)(1) of the CPSA, the period of time in which the Commission must either publish a consumer product safety rule declaring that consumer patching compounds and artificial emberizing materials containing respirable free-form asbestos are banned hazardous products, or withdraw the rule proposed on July 29, 1977 is extended to December 12, 1977. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: November 22, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-34168 Filed 11-28-8:45 am]

[16 CFR Part 1402]

CB BASE STATION ANTENNAS, TV ANTENNAS, AND SUPPORTING STRUCTURES

Proposed Warning and Instructions Requirements; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Correction to proposed rule.

SUMMARY: This document corrects a proposed rule regarding warning and instructions requirements for CB base station antennas, TV antennas and supporting structures which was published at 42 FR 57134, November 1, 1977.

DATE: Nonapplicable.

ADDRESS: Send comments to: Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Carl W. Blechschmidit, 301–492–6557.

In FR Doc. 77–31589, appearing on page 57136 in the issue of Tuesday, November 1, 1977, the following change should be made:

In § 1402.1(b)(3), the phrase "over 5 ft. in length" should be inserted after "elements" so that the first sentence will read, "Antenna supporting structures, which are elements over 5 ft. in length that are intended to support these types of antennas at a higher elevation."

Dated: November 22, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77–34219 Filed 11–28–77;8:45 am]

[4510–26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1990]

IDENTIFICATION, CLASSIFICATION AND REGULATION OF TOXIC SUBSTANCES POSING A POTENTIAL OCCUPATIONAL CARCINOGENIC RISK

Extensions of Time for Public Submissions; Rescheduling of Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extensions of time to file comments; notices of intention to appear, testimony and documentary evidence and rescheduling of rulemaking hearing.

SUMMARY: This notice extends the time for public and agency submissions concerning the rulemaking proceeding on the "cancer policy" proposed on October 4, 1977 (42 FR 54148). The rulemaking hearing also is rescheduled.

DATES: January 30, 1978 for submitting all public comments, views and arguments, testimony and documentary evidence. March 15, 1978 for submitting all testimony and documentary evidence of OSHA witnesses. April 4, 1978 for the rulemaking hearing.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, Occupational Safety and Health, Administration, 3rd Street and Constitution Avenue NW., room N3641, Washington, D.C. 20210, Tel. No. 202–523–8151.

SUPPLEMENTARY INFORMATION: On October 4, 1977, notice was published in the FEDERAL REGISTER (42 FR 54148) of a proposed new general regulation, concerning the identification, classification and regulation of toxic substances in American workplaces that may pose a carcinogenic risk to workers, pursuant to the authority in sections 6(b), 8(c), and 8(g) of the Occupational Safety and Health Act of 1970 (The Act) (84 Stat. 1593, 1599, 29 U.S.C. 655, 657) Secretary of Labor's Order No. 8–76 (41 FR 25059) and 29 CFR Part 1911.

Interested persons were given until December 8, 1977 to submit written data, views and arguments on the proposed regulations and all issues raised or involved therein, and to file notices of intention to appear at the public rulemaking hearing. Statements and documentary evidence to be presented at the hearing were to be submitted by January 9, 1978. In response to the notice, several interested parties have requested extensions of the time for submission of written comments, testimony and documentary evidence. The bases for the requests are that the issues raised by the proposal are complex and far reaching, and therefore additional time is needed to assemble relevant data and information.

OSHA wishes to encourage debate on the numerous issues raised by the proposed regulations, while recognizing the neeed to proceed as expeditiously as possible. For that reason OSHA has decided to extend the period for filing written comments data, views and arguments and notices of intention to appear to January 30, 1978. Further OSHA also extends the time period for the submission of testimony and documentary evidence to be introduced by public witnesses at the hearing to January 30, 1978.

Because of these extensions of time for submission from interested parties, OSHA will file the testimony of its witnesses and make them available on or before March 15, 1978, rather than by February 28, 1978, as set forth in the original notice. These extensions require the rescheduling of the public rulemaking hearing to April 4, 1978, rather than March 14, as set forth in the original notice. The place of the hearing has also been changed to the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

OSHA believes that any further extensions of time for filing comments, and submission of testimony and documentary evidence would result in unacceptably delaying the date of the rulemaking hearing on these proposed regulations. Therefore, OSHA intends not to grant other requests for extensions of time.

All material, including notices of intention to appear, complete texts of testimony and documentary evidence for persons wishing to participate at the hearing must be submitted in quadruplicate to the OSHA Office of Consumer Affairs, Docket No. H–090, room N–3633, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210, Telephone No.: 202–523–8024.

Written comments from persons not intending to participate at the hearing must be submitted in quadruplicate to the Docket Officer, Docket No. H–090, room S–6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

In all other respects the procedures and requirements of the original notice remain in effect.

Signed at Washington, D.C. this 22nd day of November, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77–34089 Filed 11–28–77;8:45 am]

[6560–01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[EPA Docket Number 1A–77–1; FRL 819–6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN—CONNECTICUT

Proposed Carbon Monoxide/Oxidant Control Strategies and Regulations

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice puts forth for public comment proposed strategies and regulations for the control of carbon monoxide and oxidants in Connecticut. The development of these controls for Connecticut is required by the Clean Air Act, as amended, and the proposals discussed are based on the state's submission in response to these requests. The basis for these requirements was the analysis of ambient air quality data in Connecticut which showed widespread violations of the National Ambient Air Quality Standards for carbon monoxide and oxidants. The purpose of the controls is to reduce certain stationary source and mobile source emissions in an attempt to attain the ambient air quality standards for carbon monoxide and oxidants throughout the state.

DATES: Comments are due on or before February 27, 1978. Hearings will be held on December 14, and 15, 1977.

ADDRESSES: Send all comments to: Environmental Protection Agency, Region I, JFK Building, Boston, Mass. 02203.

Public hearings will be held: On December 14, 1977 in Bridgeport, Connecticut, City Hall, Council Chambers, 1 pm and 7 pm., on December 15, 1977 in Hartford, Conn., Hartford Hilton Hotel, Capitol Ballroom, 1 pm and 7 pm.

Testimony may be given at the scheduled public hearings.

FOR FURTHER INFORMATION CONTACT:

U.S. Environmental Protection Agency Region I, Air and Hazardous Materials Division, room 2113, JFK Building, Boston, Mass. 02203, Attention: Mrs. Barbara H. Ikalainen, telephone: 617-223-5630.

SUPPLEMENTAL INFORMATION: Under the Clean Air Act, (the Act) each State is required to develop a State Implementation Plan (SIP) that provides for the attainment and maintenance of the established air quality standards, ncluding those primarily associated with motor vehicles, carbon monoxide and hydrocarbons (precursors to oxidant formation), within the time frames set forth in the Act. Section 110 of the Act requires that if a state fails to submit an approvable plan, EPA must promulgate one. Controls on specific categories of stationary sources and the Federal Motor Vehicle Emission Control Program (FMVECP) have helped toward achieving the air quality standards. However, many areas need further controls on sources of the automotive-related pollutants in order to attain and maintain the National Ambient Air Quality Standards (NAAQS). In these areas SIP's must contain measures to reduce pollutant emissions from automotive-related sources. The measures include reductions in automobile emission rates, reduction of vehicle miles traveled and measures to reduce hydrocarbon emissions from stationary sources.

Reduction of emissions per mile may be achieved through control measures such as the FMVECP and Inspection and Maintenance (I&M) of motor vehicles. Reductions in vehicle miles traveled may be achieved through transit improvements, carpooling, auto restricted areas, and traffic and parking management, among others. Reductions in pollutant emissions from less traditional stationary sources can be achieved through gasoline marketing controls (Stage I and II Vapor Recovery and bulk terminal controls), among others.

Since 1970, more knowledge concerning the formation and transport of oxidants has been gained. It has been found that localized concentrations of hydrocarbons react to cause localized oxidant formation and, in addition, it has been found that local concentrations of hydrocarbons act as precursor pollutants which regenerate the reactions which take place in an oxidant "cloud" as it is transported from one area into another. It is therefore apparent that oxidant control will result from the control of hydrocarbons. Because of the transport of oxidants from one area into another, Connecticut has been a leader in attempts to work out an agreement among all of the states in the northeast to apply uniformly strict controls over hydrocarbon sources. EPA is also requiring that New York, New Jersey, Rhode Island and Massachusetts adopt similar hydrocarbon controls. However, it should be noted that even if no transport occurred, oxidant levels in Connecticut would still violate the standard by a factor of two.

EPA feels that the correct approach to controlling oxidants is to control all categories of stationary source hydrocarbons including gasoline dispensing facilities as expeditiously as reasonably available control technology (RACT) is determined for such categories and to continue efforts to reduce automotive-related hydrocarbon emissions through the FMVECP, I&M and vehicle use strategies.

The purpose of the controls described in this notice is to reduce emissions of both hydrocarbons and carbon monoxide by implementing some of the available RACT measures. (Connecticut has previously agreed to apply RACT controls to all stationary sources of hydrocarbons as they are defined by EPA.)

EPA has previously determined that in order to consider a carbon monoxide/oxidant state implementation plan to have all RACT measures, the plan must contain, at a minmum, controls comparable to the following:

1. Inspection and Maintenance of motor vehicles.
2. Vapor Controls for Gasoline Marketing and Storage.
3. Stationary Source Controls of Volatile Organic Compounds.
4. Transit Improvements.
5. Employer Implemented Commuting Incentives.
6. Parking Management/Restrictions.
7. Traffic Management/Restrictions.

Of these necessary controls, the plan elements discussed below for Connecticut are the following:

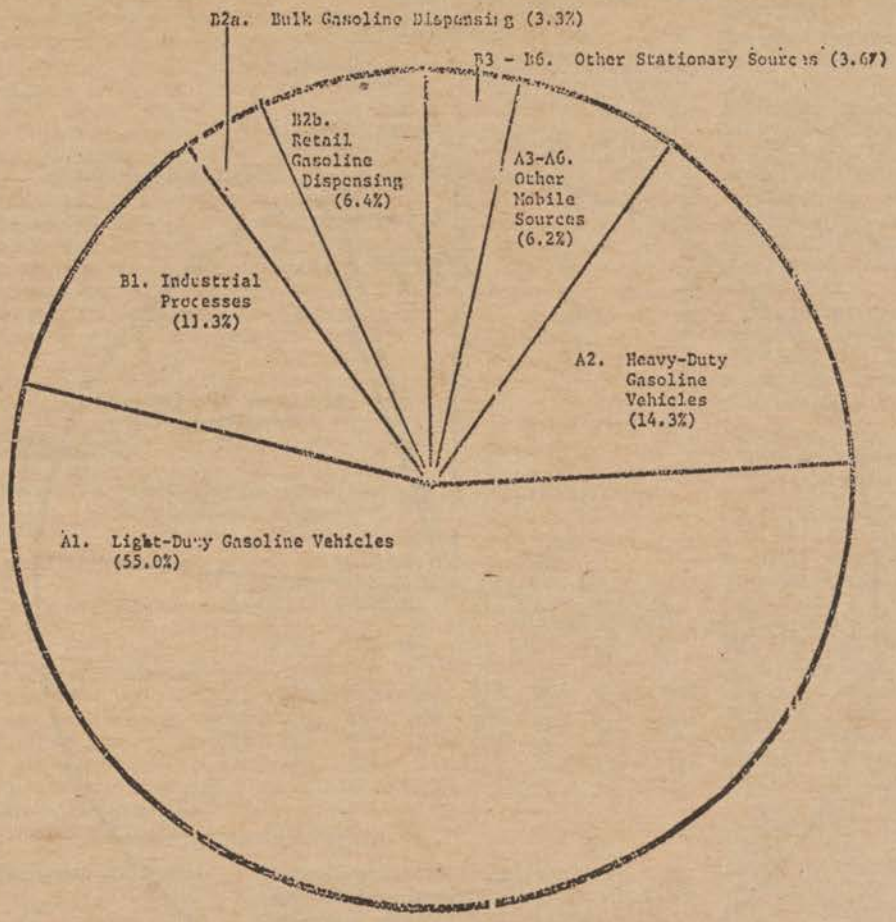
1. "Stage I" Vapor Controls for Gasoline Marketing.
2. Inspection and Maintenance of Motor Vehicles.
3. Employer Implemented Commuter Incentive Plans.
4. Transit Improvements and Vehicle Use Strategies through a Transportation Plan Review Strategy.

Since the State has not yet finalized all the regulations and strategies which EPA requires as RACT for carbon monoxide/oxidant attainment plans, the controls described in this notice if approved or promulgated will constitute an interim plan with the intent that subsequent revisions will follow.

Estimated Percent Source Contribution and Effectiveness of Various Hydrocarbon and Carbon Monoxide Categories

The Department of Environmental Protection's (DEP) estimation of the percent that specific source categories contribute to hydrocarbon accumulation and oxidant formation in the State of Connecticut is presented in the following diagram. It is apparent that Stage I vapor recovery controls and controls of other stationary sources and controls of hydrocarbons from automobiles through I&M and the FMVECP alone will not be sufficient to control total hydrocarbons emitted in Connecticut. (See Figure 1)

FIGURE 1



HC Source Contributions in the State of Connecticut in 1974.
(Figure prepared by the Connecticut Department of Environmental Pro

The DEP's estimation of the percent that specific source categories contribute to carbon monoxide formation in the State of Connecticut is presented in the following diagram. It is apparent that the automobile contributes the most significant portion of the problem (76.4 percent). It is, therefore, imperative that Connecticut have an I&M program to ensure the effectiveness of the FMVECP. The Transportation Plan Review Strategy could also serve to effectively reduce and control automative carbon monoxide pollution. (See Figure 2).

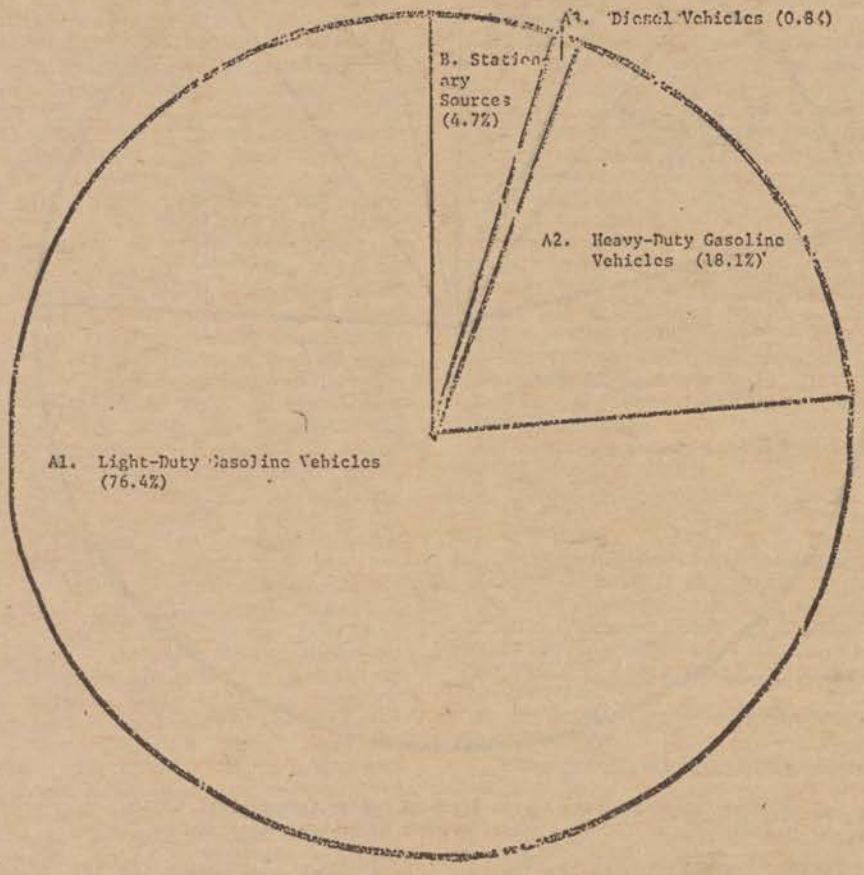
Air Quality Analysis

The controls described in this notice are proposed to reduce two motor vehicle related air pollutants for which NAAQSs have been established, oxidants and carbon monoxide. The NAAQS's for these pollutants are listed below:

Pollutant	Maximum allowable concentration	Averaging-time/ frequency
Oxidants.....	160 $\mu g/m^3$ (.08 p/m).	1-hr maximum not to be exceeded more than once a year.
Carbon monoxide.	10 mg/m^3 (9 p/m).	8-hr maximum not to be exceeded more than once a year.
	40 mg/m^3 (35 p/m).	1-hr maximum not to be exceeded more than once a year.

Throughout Connecticut, ambient air quality data for 1974 and 1975 show that carbon monoxide and oxidant concentrations far exceed the maximum allowable concentrations. The 1976 data, although not used as a basis, showed a continuation of widespread and high violations of the carbon monoxide and oxidant standards.

FIGURE 1



CO Source Contributions in the State of Connecticut in 1974.

(Figure prepared by Connecticut Department of Environmental Protection)

OXIDANTS

At each of 11 sites during the summers of 1974 and 1975 levels in excess of the NAAQS were recorded frequently (for percent frequency see Table 1). It is believed that high oxidant levels occur so pervasively in Connecticut that on certain days a monitor located at any point in the state would record a violation of the NAAQS. Some controversy has existed over oxidant values records in Connecticut, because they differed from readings taken at the same times in nearby states. However, subsequent studies have verified the accuracy of the Connecticut readings. The impact of emissions originating in upwind states, particularly New York and New Jersey, on Connecticut air quality is a matter of considerable concern. Although almost every state which is contiguous with a metropolitan area is influenced by transport, Connecticut's situation is particularly bad because emissions from the heavy vehicular densities within the state are exacerbated by transport of oxidants into the state from upwind metropolitan areas. Oxidant data validated by EPA is presented in the following table (Table 1.)

CARBON MONOXIDE

The network of carbon monoxide monitors throughout the State of Connecticut has been expanded to seven sites since 1973. The eight hours NAAQS was frequently exceeded during 1974 and 1975 in many places in Connecticut.

Carbon monoxide levels in excess of the NAAQS are generally found at intersections, and other areas where traffic congestion occurs. In such locations, low route speeds, poor ventilation, and

high traffic density create pockets of high carbon monoxide concentrations to which people are exposed. Carbon Monoxide data, submitted by the DEP, is presented in the following Table (Table 2.)

TABLE 1.—*Connecticut oxidant data, May–September 1974 and 1975 (data from the Connecticut air quality summary 1974, 1975)*

Site	2d high 1-hr value (parts per million)		Frequency of days with maximum above 0.08 p/m (NAAQS) (percent)	
	1974, May–September	1975, May–September	1974, May–September	1975, May–September
Bridgeport	0.23	0.25	38	32
Danbury	.25	.19	50	33
Eastford**	.19	.21	46	24
Enfield		.19		31
Greenwich	.24	.18	57	33
Groton	.22	.20	38	36
Hamden		.26		30
Hartford*	.21	.19	34	35
Morris	.18	.15	43	35
Middletown**	.32	.30	46	26
New Haven	.28	.31	43	26
Stamford	.23	.20	48	33
Torrington		.19		32
Windsor	.17	.21	14	22

*Indicates less than 5 mo of data for 1975.
**Indicates less than 5 mo of data for 1974.

TABLE 2.—*Summary of monitored carbon monoxide data in 1974 and 1975 in selected towns*

	CO (milligrams per cubic meter³)							
	Highest 3-hr average		2d highest 8-hr average		Highest 1-hr average		2d highest 1-hr average	
	1974	1975	1974	1975	1974	1975	1974	1975
Bridgeport	20.3	14.0	19.8	11.9	27.0	16.5	25.0	16.0
Greenwich	19.4	13.9	19.2	11.8	40.0	30.0	35.0	22.0
Hartford	16.9	21.2	14.5	18.9	28.0	22.5	21.0	22.0
New Britain	25.1	15.6	24.2	15.1	28.0	23.5	28.0	20.0
Norwalk	16.0	12.5	14.6	12.3	25.0	22.5	22.0	22.5
Stamford	12.9	8.2	12.3	7.9	15.0	15.0	15.0	13.9

Ref: Connecticut Air Quality Summary 1974, 1975.

NOTE.—*NAAQS for CO: 8 hr-average = 10 mg/m³, 1-hr average = 40 mg/m³.

HISTORY OF THE PROPOSED CONTROLS

In a letter dated, August 17, 1973 EPA notified the Governor of Connecticut that a "Transportation Control Plan" must be submitted by January 31, 1974 for the Connecticut portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region (AQCR). Subsequent ambient air quality monitoring data revealed the need for a "Transportation Control Plan" for the New York-New Jersey-Connecticut Interstate AQCR. Accordingly, in a letter dated February 20, 1974 the Regional Administrator requested the Governor of Connecticut to develop a plan for the New York-New Jersey-Connecticut Interstate AQCR.

In March of 1976 a plan was completed by the DEP and made available to the public through public hearings held on March 8, 9, 10, 15, 16, and 17, 1976. After these hearings, the final plan was submitted to EPA on August 10, 1976 as a proposed revision to the SIP. EPA requested additional information which was supplied by the DEP on January 7, 1977.

The DEP also initiated, in October, 1976, a forum to develop interstate agreements with a number of northeastern U.S. States, including New York, New Jersey, Rhode Island, and Massachusetts to impose uniformly strict controls on stationary sources of hydrocarbons. Connecticut has implemented an excellent stationary source hydrocarbon control program.

Prior to submittal of the plan, the Governor determined that two of the controls required legislative approval: I&M and Stage I vapor recovery at retail gasoline stations. Since the governor's submittal, the Connecticut Legislative Regulations Review Committee has rejected the proposed regulation for Stage I vapor recovery, and the Joint Legislative Transportation Committee voted against supporting the governor's bill to establish an I&M program. Under Section 110 of the Clean Air Act, as amended, EPA has a legal obligation to undertake necessary controls to alleviate standards violations when a state is unable to do so. Therefore, EPA is now proposing to disapprove the State's I&M and Stage I vapor recovery submissions for lack of adequate state legal authority and at the same time is proposing to promulgate a Federal I&M program and a Stage I vapor recovery regulation.

In addition to the I&M and Stage I vapor recovery regulations, Connecticut submitted a strategy to promote carpooling, "Employer—Implemented Commuter Incentive Plans" which EPA proposes to approve in its entirety as submitted. Also included for public information and comment are Connecticut's commitment to implement a Heavy Duty Vehicle Retrofit regulation, and a Stage II vapor recovery regulation. The "Stage II" and Heavy Duty Retrofit regulations will also require approval by the Connecticut General Assembly and are not being considered for approval or disapproval by EPA at this time because of technical uncertainties related to ultimate promulgation of these two controls which are discussed below The Transportation Plan Review Strategy is also included for public information and comment but will be proposed for approval or disapproval in its entirety in a separate FEDERAL REGISTER notice at a later time.

Resources required to implement the controls have been estimated by both the DEP and EPA. Staffing limitations at the state level may be mitigated through contractual assistance by EPA.

PROPOSED CARBON MONOXIDE/OXIDANT SUMMARY STAGE I VAPOR RECOVERY AT GASOLINE DISPENSING FACILITIES

When the Plan was submitted on August 10, 1976, the proposed Stage I vapor recovery regulation had not received legislative approval. Since the submission of the Plan, the Connecticut Legislative Regulations Review Committee has rejected the proposed regulation. EPA has a legal obligation under Section 110 of the Act to promulgate federal regulations when a State lacks necessary legal authority. Therefore, EPA is proposing to promulgate a Stage I vapor recovery regulation.

The federal regulation being proposed in this notice differs from the proposed Stage I vapor recovery regulation submitted by the DEP in that the federal regulation will apply to gasoline dispensing facilities throughout the state as opposed to facilities only in the 97 municipalities in the state defined "Control Area," and the minimum cut off size will be based on tank size rather than throughput. It is similar to regulations which EPA has promulgated or will promulgate elsewhere in the country.

The regulation requires that "Stage I" controls must be installed and operated at gasoline-dispensing facilities with existing storage tanks of 2000 gallons or more and new tanks of 250 gallons or more. These controls include: a vapor-tight return line from the storage container to the delivery vessel, a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container; and a system that will recover no less than 90 percent by weight of the organic compounds in the displaced vapor. The regulation also requires these controls on gasoline transfer operations which service these facilities.

Onsite construction or installation of these controls must begin within six months after promulgation of the regulations and final compliance with all controls operative must occur within one year after promulgation. EPA is requiring uniformly strict Stage I controls

in New York, New Jersey, Rhode Island, and Massachusetts.

STAGE II VAPOR RECOVERY AT GASOLINE-DISPENSING FACILITIES

The DEP has proposed that Stage II vapor recovery systems will be required at gasoline-dispensing facilities in the control area as defined by the DEP. Stage II controls collect and contain (and liquefy or incinerate) hydrocarbon vapors generated during the transfer from facilities' underground tanks to motor vehicle tanks. It should be noted that due to technical uncertainties, EPA has not promulgated any federal Stage II regulation and that any Stage II regulation proposed by the DEP will require approval by the Connecticut Legislative Regulations Review Committee. For these reasons, EPA is not proposing to approve or disapprove this regulation at this time, but public comment is being solicited.

Significant emission reductions and fuel savings are expected as a result of Stage I and Stage II vapor recovery controls on gasoline marketing operations. These controls together will capture about 6 percent of the needed reductions of smog-causing hydrocarbons in the state and Stage I controls alone will capture about 3 percent. The fuel savings will vary depending upon the recovery efficiency but will be close to the hydrocarbon reductions stated above. The cost of installing Stage I controls usually averages about $2,000 per station. This would consist of $300 to $500 for equipment and $1,300 to $1,600 for installation. Tank trucks must be modified to receive the displaced vapors. The cost of this modification will be about $550 per compartment or $2,200 to $3,300 per truck. If the truck is also converted to bottom loading at the same time the cost is an additional $1,000 per compartment or $4,000 to $6,000 per truck. The cost of this work will be partially offset by the product recovered when the vapors are processed.

In connection with Stage I controls owners may wish to install the additional piping which will be necessary to add on Stage II controls since this will avoid the cost and inconvenience of groundbreaking twice. The additional cost to insure underground piping for Stage II is estimated to be $300 to $2,300 per station depending upon the number of islands and pumps.

INSPECTION AND MAINTENANCE

The DEP and EPA believe that an I&M program is necessary to achieve significant reductions in automotive pollution. In its plan submittal the DEP stated its belief that it is necessary to obtain enabling legislation from the state legislature. The DEP presented a proposed bill establishing an I&M program to the Joint Legislative Committee on Transportation which was rejected by the Committee. Without this enabling legislation, or a federal promulgation, the DEP is reluctant to take any further steps towards establishing a program. EPA is, therefore, proposing to disapprove the State submittal for lack of adequate state legal authority and is proposing federal regulations to supply the necessary legal authority. EPA is of the opinion that the federal regulations, the Clean Air Act, and the Supremacy Clause of the United States Constitution provide state officials with an adequate legal basis for the state operation of the required I&M program.

Furthermore, since the regulations will be federally promulgated, they can be enforced, if necessary, in a federal court. Should Connecticut at any time wish to implement an I&M program without relying on any federal authority, it would be possible for the state to submit a program which is accompanied by adequate state legal authority and for EPA to approve the State submittal and to withdraw the federally promulgated requirements.

EPA has derived the proposed Inspection and Maintenance regulation from the state submission and in so doing seeks to accommodate insofar as possible, program choices made by the state. EPA is particularly interested in receiving comments on whether this effort by EPA has been successful.

In order to allow the State maximum flexibility to implement the type of I&M program that it wishes, EPA has not specified the legal, administrative, or budgetary mechanism the State should select in order to comply. The state may implement a contractor run program using loaded mode testing (which is the program originally considered by the DEP) or any other program which will achieve the necessary state emission reductions.

The stipulations which EPA is proposing to require are that by January 1, 1980 the state shall not register or allow to be operated on state roads any light duty vehicle unless it has been certified that the vehicle meets the requirements of the program. The federal promulgation specifies that the first inspection cycles would begin on January 1, 1979. Also specified is the percentage reduction of carbon monoxide (38 percent) and hydrocarbons (20 percent) to be achieved by 1982 calculated from stringency factors which the State proposed and based on application of Appendix N ("Emission Reductions Achievable through Inspection and Maintenance of Light Duty Vehicles, Motorcycles and Light and Heavy Duty Trucks," Environmental Protection Agency as proposed in the May 2, 1977 FEDERAL REGISTER (40 FR 22177).)

EMPLOYER-IMPLEMENTED COMMUTER INCENTIVE PLANS (EICIP'S)

EPA is proposing to approve this strategy as submitted by the DEP in its entirety.

All firms employing 150 or more persons at a single location will be asked to voluntarily develop plans for achieving an employee/vehicle ratio by 1977 and 1980 in accordance with the following schedule:

Number of employees	Employee vehicle ratio	
	1977	1980
150 to 499	1.35	2.00
500 to 999	1.50	2.20
100 to 1,999	1.80	2.50
2,000 or more	2.00	3.00

Reports from all voluntarily participating employers on their actions to implement the program are to be submitted to the DEP in a staggered time span from May 1977 until May 1978. Each facility is asked to report on available parking supply, commuting patterns of their employees, and past, present, and future planned incentives to encourage carpooling and public transit use. Each facility will annually update these reports to DEP.

In compliance with this program an employer may choose any measure (or combination of measures) so long as it could reasonably be expected to achieve the above employee/vehicle ratios. Some suggested measures are: publicizing both the social and economic advantages of carpooling, vanpooling, and transit use; distributing monthly transit passes; coordinating work hours and transit schedules; implementing a 4-day work week; and offering preferential-parking incentives for carpoolers.

By July 1, 1978 the Connecticut DEP has agreed to report to EPA on its findings of the workability of the voluntary carpooling program. If there is widespread participation in the voluntary plan, then the 1980 goals will also be voluntary. However, if the Connecticut DEP or EPA determines that voluntary participation in this strategy is not achieving the desired results, then DEP or EPA will assure that all or part of the strategy will become mandatory. The DEP has also agreed to submit a summary report and evaluation of the EICIP to EPA each year for the duration of the program.

A significant positive economic impact can be expected from the implementation of the EICIP. According to figures developed by the DEP, if the average cost of a commuting trip is $2.50 per vehicle, the average annual cost to the commuter who drives alone is about $650. Every commuter who purchases a monthly bus pass instead of choosing single passenger auto commuting could save $500 per year. For commuters who pool with 1, 2, or 3 other persons the expected annual savings is $325, $440, and $448 respectively.

TRANSPORTATION PLAN REVIEW STRATEGY

The original August 10, 1977 submittal by the DEP contained a proposed Transportation Plan Review Strategy which had received the Governor's endorsement. However, the DEP and EPA have been discussing several modifications to the proposed strategy and the DEP is in the process of developing a revised strategy for submittal to the Governor for

endorsement. After submittal to EPA the final proposed version of the Transportation Plan Review Strategy will be subsequently proposed in its entirety in a separate FEDERAL REGISTER notice.

The intent of the strategy is to establish a procedure whereby all transportation plans will be reviewed by the state air pollution control agency to ensure that the transportation projects are consistent with the goals of attainment and maintenance of ambient air quality standards. Additionally, the strategy proposes to establish a procedure for developing and implementing vehicle-use controls which will positively contribute to the attainment of national ambient air quality standards. In the past, EPA has proposed and implemented various transportation related measures as controls for automotive emissions without the assistance of state transportation agencies. The amendments to the Clean Air Act make it clear that local and regional officials should be brought into state decisions regarding transportation controls. Conversely, state transportation agencies have implemented transportation measures without considering the impact on air quality.

It is intended that a Transportation Plan Review Strategy will provide a mechanism whereby coordinated and more effective transportation controls will be developed as an integral part of the planning process and that transportation projects will be designed to be consistent with the goals of air quality attainment and maintenance. In order to accomplish such a coordinated effort, agreements relating to the review of proposed transportation projects will be developed. Most state transportation projects are originated by Metropolitan Planning Organizations (MPO's) and are then submitted to State Departments of Transportation (DOT's). In the proposed process transportation projects proposed by the MPO's would be reviewed by the DEP to see if the projects are consistent with air quality goals. The details of these arrangements and the entire review procedure will be explained in a subsequent FEDERAL REGISTER. At this time, the public's comments on the overall approach outlined in this strategy are solicited.

HEAVY DUTY RETROFIT

The DEP has proposed that gasoline-powered motor vehicles of over 6,000 pounds gross vehicle weight will be required to install air-pollution devices in accordance with regulations to be promulgated by the DEP. The requirement would be consistent with similar regulations being considered in the New Jersey and New York portions of the New York-New Jersey-Connecticut AQCR. Vehicles retrofitted would receive stickers indicating compliance with the requirement. The DEP has estimated that heavy-duty gasoline vehicles contribute 14.3 percent of total hydrocarbon emissions in Connecticut. Control systems for heavy duty vehicles are capable of controlling 60 to 70 percent of the hydrocarbons emitted. Therefore, this regulation should be capable of reducing the total hydrocarbons emitted in Connecticut by 13.2 percent.

Any Heavy Duty Retrofit regulation proposed by the DEP will apparently require approval by the Connecticut Legislative Regulations Review Committee. Furthermore, the technical design of retrofit devices is still under consideration. Therefore, because of these technical uncertainties and since the State has not yet obtained the necessary legislative authority, EPA is neither proposing approval nor disapproval of this regulation but is asking for public comment on the desirability of implementing such a regulation in Connecticut. If a Heavy Duty Retrofit program is adopted then provisions to inspect and maintain heavy duty vehicles will have to be incorporated into the Inspection and Maintenance program.

MONITORING MOBILE SOURCE EMISSIONS AND CONTROL STRATEGIES

EPA is proposing to require the DEP to monitor and to provide an annual report on the adequacy of their ambient monitoring network for carbn monoxide and oxidants to ensure that the reduction of mobile source emission pollution, and the adequacy of control strategies, may be fully evaluated.

EPA is also proposing to require the state to develop an annual summary evaluation of the effectiveness of their I&M program.

PUBLIC PARTICIPATION AND AVAILABILITY OF INFORMATION

Copies of the Connecticut submittal (Docket Number *1–A–77–1*) and other background information are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 2113, Boston, Mass. 02203; the Connecticut Department of Environmental Protection, State Office Building, Hartford, Conn. 06115; and the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460.

EPA will consider all comments which are received prior to February 27, 1977. All those who wish to ensure that their views receive formal consideration as a part of this proposal and are reflected in any record certified for judicial review must submit written comments during the comment period or present testimony at the public hearing. All comments should be addressed to:

William R. Adams, Jr., Regional Administrator, Region I, Environmental Protection Agency, room 2200, John F. Kennedy Federal Building, Boston, Mass. 02203.

with a copy to:

Commissioner, Connecticut Department of Environmental Protection, State Office Building, Hartford, Conn. 06115.

The Administrator's decision to approve or disapprove the controls described in this Notice as revisions to the Connecticut State Implementation Plan will be influenced by the comments he receives as well as by any additional technical documentation that he receives. Ultimately, the Administrator's decision will be based on whether the Plan meets the requirements of Section 110(a)(2)(A)(H) of the Clean Air Act and EPA requirements in 40 CFR Part 51. (Section 110 of the Clean Air Act, as amended. (42 U.S.C. 7401 et seq.).)

ECONOMIC IMPACT

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A–107.

Dated: November 15, 1977.

WILLIAM R. ADAMS, Jr.,
Regional Administrator.

Part 52 of Chapter 1, Title 40, Code of Federal Regulations, is proposed to be amended as follows:

Subpart H—Connecticut

1. Section 52.370, paragraph (c) is amended by adding paragraph (2) as follows:

§ 52.370 Identification of Plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(2) The Connecticut Transportation Control Plan developed by the Department of Environmental Protection was submitted to the Regional Administrator by Governor Grasso on August 10, 1976.

2. Section 52.392 is added to read as follows:

§ 52.392 Regulation of Emissions from Gasoline Dispensing Facilities.

(a) *Definitions.* For the purpose of this section, the following definitions apply:

(1) "Gasoline" means a petroleum distillate having a Reid Vapor Pressure of 4 pounds or greater.

(2) "Delivery vessel" means a tank truck, tank-equipped trailer, railroad tank car, or other mobile source equipped with a storage tank used for the transport of gasoline from sources of supply to stationary storage tanks of gasoline dispensing facilities.

(3) "Submerged fill pipe" means any fill pipe with a discharge opening which is entirely submerged when the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

(4) "Owner" means the person who has equitable title to the gasoline storage tank at a facility.

(5) "Operator" means any person who is a leasee of, or supervises a facility at which gasoline is dispensed.

(6) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle gasoline tanks from stationary storage tanks.

(7) "Gasoline transfer operation" means a facility where gasoline is received from a bulk terminal and stored

for later delivery to a gasoline dispensing facility.

(8) "Administrator" means the Regional Administrator of the U.S. Environmental Protection Agency, Region I, or his designee.

(9) "Vapor Recovery System" means a system that prevents release to the atmosphere of no less than 90 percent (by weight) of organic compounds in the vapors displaced from a stationary gasoline storage tank during the transfer of gasoline. This system shall include one or more of the following:

(i) A vapor-tight return line from the storage tank to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the tank. If a vapor-tight vapor return system is used to meet the requirements of this section, it shall be constructed so that the system may be retrofitted with an adsorption system, refrigeration-condensation system, or equivalent vapor removal system.

(ii) A refrigeration-condensation system or equivalent designed to recover no less than 90 percent by weight of the organic compounds in the displaced vapor.

(b) This section is applicable in the entire State of Connecticut in accordance with the schedule in section (h).

(c) No person shall transfer or allow transfer of gasoline from any delivery vessel into any stationary storage tank included in paragraph (c) (1) (2) or (3) of this section unless the tank is equipped with a submerged fill pipe and less the vapors displaced from the storage tank are processed by a vapor recovery system.

(1) Any tank with a capacity of 2000 gallons or more which is in place prior to the effective date of this regulation located at a gasoline dispensing facility.

(2) Any tank with a capacity of 250 gallons or more which is installed on or after the effective date of this regulation located at a gasoline dispensing facility.

(3) Any tank which is located at a gasoline transfer operation which stores gasoline for delivery to any tanks included in paragraph (c) (1) or (2) of this section.

(d) The vapor-laden delivery vessel shall be subject to the following conditions:

(1) The delivery vessel must be so designed and maintained as to be vapor tight at all times.

(2) The vapor-laden delivery vessel may be refilled only at facilities equipped with a vapor recovery system or the equivalent that can recover at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(e) Responsibility of Owners. Each owner of a gasoline storage tank covered by paragraphs (b) and (c) hereof shall:

(1) Submit plans and specifications, purchase and install all necessary control systems and make all necessary process modifications in accordance with the schedule in Section (h) hereof;

(2) Provide instructions to the operator of the gasoline dispensing facility, describing necessary maintenance operations and procedures for prompt notification of the owner in case of any malfunctions of the control system;

(3) Repair, replace or modify any worn out or malfunctioning component or element of design and keep records of the repair, replacement or modification of any component or element of design of the control system.

(f) *Responsibility of operators.* Each operator of a gasoline dispensing facility covered by paragraphs (b) and (c) shall:

(1) Maintain and operate the control system in accordance with the specifications and the operating and maintenance procedures specified by the owner;

(2) Promptly notify the owner of the control system of any scheduled maintenance or malfunction requiring replacement or repair of major components of the system;

(3) Maintain records of all maintenance performed by the operator and of all notifications to the owner of any scheduled maintenance or malfunction requiring replacement or repair of major components of the system and the action taken by the owner. Such records shall at a minimum include: the scheduled data for maintenance or the date a malfunction was detected; the date the need for maintenance or malfunction of major system components was reported to the owner; and the date the maintenance was performed or the malfunction corrected by either operator or owner;

(4) Maintain gauges, meters, or other specified testing devices in proper working order.

(g) *Exemptions.* The provisions of this section shall not apply to transfers made to storage tanks equipped with floating roofs or their equivalent.

(h) The owner of any storage tank or delivery vessel subject to the provisions of this section shall install a vapor recovery system in compliance with the increments of progress in the following schedule:

(1) Final control plans for emission control systems or process modifications must be available upon request of the Administrator within two months after final promulgation of these regulations.

(2) Contracts for emission control systems or process modifications must be awarded or orders must be issued, within five months following final promulgation, for the purchase of component parts to accomplish emission control or process modification.

(3) Initiation of onsite construction or installation of process control equipment must begin within seven months following final promulgation.

(4) Onsite construction or installation of emission control equipment or process modifications must be completed within ten months following final promulgation.

(5) Final compliance is to be achieved within one year of final promulgation of these regulations.

3. Section 52.393 is added to read as follows:

§ 52.393 Monitoring Mobile Source Emissions and Control Strategies.

(a) Definitions:

(1) "Administrator" means the Regional Administrator of the United States Environmental Protection Agency, Region I, or his designee.

(b) This section is applicable in the entire State of Connecticut.

(c) The Connecticut Department of Environmental Protection (DEP), shall annually review its existing air quality monitoring network for carbon monoxide and oxidants and modify it as necessary so as to provide an adequate basis for measuring the reduction of mobile source emission pollution gained through the implementation of oxidants and carbon monoxide control strategies. A report on this review and evaluation shall be submitted annually to the Administrator beginning one year after final promulgation of these regulations.

(d) *Inspection and Maintenance Plan Review.* The DEP shall prepare a report for the Administrator annually, to be submitted January 31, 1981 and every January 31st thereafter which shall evaluate the effectiveness of the program established by the state pursuant to Section 52.394 containing at a minimum the following information:

(1) The actual emission reductions for both carbon monoxide and hydrocarbons occuring as a result of the Inspection and Maintenance program.

(2) An evaluation of the failures disaggregated by vehicle make, model, engine family, and year.

(3) The average failure rate.

(4) Any substantial modifications made to the Inspection and Maintenance program established under § 52.394.

4. Section 52.394 is added to read as follows:

§ 52.394 Regulation for Inspection and Maintenance.

(a) Definitions:

(1) "Light Duty Vehicle" means all gasoline powered motor vehicles rated at 8500 lb GVW or less registered in the State of Connecticut except any class or category of vehicles which the state chooses to exempt because of rare use on public streets and highways.

(2) "Administrator" means the Regional Administrator of the United States Environmental Protection Agency, Region I, or his designee.

(b) Applicability:

This section is applicable in the entire State of Connecticut.

(c) Prohibited Acts:

(1) On or after January 1, 1980, the state shall not register, renew registration of, or allow to operate on any road or highway subject to its jurisdiction any light duty vehicle unless such vehicle has been certified to be in compliance with specified state emission standards and testing specifications set forth in this section. This shall apply to the initial

registration of a new vehicle within 30 days.

(2) On or after January 1, 1980, no person shall operate any light duty vehicle on any road or highway subject to the jurisdiction of the state unless such vehicle has met the requirements of this section. This shall apply to the initial registration of a new vehicle within 30 days.

(d) Establishment of an Inspection and Maintenance Program.

(1) The state shall establish an Inspection and Maintenance program, applicable to all light duty vehicles, registered in the state. This program shall include emission standards designed to achieve at least a (38 percent) total reduction in carbon monoxide emissions and a 20 percent total reduction in hydrocarbon emissions by December 31, 1982, as calculated from light-duty vehicle emissions as of January 1, 1980. Such emission standards shall be determined by application of 40 CFR Part 51, Appendix N, as proposed in the FEDERAL REGISTER of May 2, 1977 (40 FR 22177) or as subsequently reproposed or promulgated by the Administrator.

(2) The state shall inspect all light duty vehicles at intevals of no more than one year.

(3) The state shall provide for an initial phase-in vehicle inspection cycle for a period of twelve months during which time maintenance and repairs of failing vehicles will be voluntary. This first inspection cycle shall begin on January 1, 1979 and end on December 31, 1979.

(4) The state shall ensure that after January 1, 1980 any light duty vehicle which initially fails to meet the requirements of this section shall receive necessary maintenance and be retested following maintenance to insure compliance with the established state emission standards.

(5) The state shall designate an agency or agencies responsible for conducting the Inspection and Maintenance program.

(6) The state shall provide evidence of certification to owners of light duty vehicles which have met the requirements of this section.

(e) Minimal Technical Components of an Inspection and Maintenance Program.

(1) *Minimum Standards.* (i) The State shall establish as an approved testing procedure a "short test" as described in the notice of proposed rulemaking appearing in the FEDERAL REGISTER for May 25, 1977 (42 FR 26741 et seq.) or as subsequently modified and finally established under section 207(b)(1) of the Clean Air Act (42 U.S.C. 7541(b)(1) formally 42 U.S.C. 1857f–5a(b)(1)).

(ii) The State shall utilize one or more exhaust gas analyzers which are equivalent to the non-dispersive infrared (NDIR) operating principal and which will be capable of performing within the specifications outlined in the May 25, 1977 FEDERAL REGISTER (42 FR 26741 et seq.) proposed regulation or as subsequently modified.

(iii) The State shall establish any necessary documentation, such as forms or stickers, to indicate the pass/fail status of each inspection test or retest. Such documentation shall be used to certify passage of the test to the light duty vehicle owner and provide information to registration officials in the state.

(2) *Quality Assurance.* (i) The State shall establish procedures to insure uniform and accurate instrument calibration.

(ii) The State shall establish procedures to assure accuracy of the data gathered under paragraph (e)(3) of this section.

(iii) The State shall at least monthly inspect the participating facilities to assure adherence with approved equipment use and procedures.

(3) *Data Gathering, Dissemination, and Storage.* (i) The State shall establish a data system to record the pass/fail status of each light duty vehicle and the vehicle registration number and record results from all test and re-tests in a standardized format.

(ii) The State shall provide for the dissemination of information to the public regarding test procedures, location for testing, legal requirements, and purpose of the program.

(iii) The State shall provide for the production and preparation of the statistical and other information required for reporting purposes under § 52.393(c)(i)–52.393(d)(1–4).

(iv) The State shall provide for the storage of records as set forth in § 52.393(d)(1–4) and maintenance of such records in a manner available for public inspection for a period of three years after the date of each test.

(4) *Training.* The State shall establish a program for the training of mechanics and inspectors to assure their competence through course completion, examinations or any other suitable means.

(f) Legal Authority. These regulations, under the Clean Air Act and the United States Constitution; provide state officials with any necessary legal basis and authority for actions required by the regulations.

(g) *Compliance Schedule Reporting.* On or before June 30, 1978 and yearly thereafter until the program established under this section is fully implemented the State shall submit to the Administrator a compliance schedule describing specific actions the State intends to take to carry out its obligations under this section.

(Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601, formally 42 U.S.C. 1857c–5, 1857g).)

[FR Doc.77-34061 Filed 11-28-77;8:45 am]

[4110–84]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 51a]

MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

Special Projects of Regional or National Significance

AGENCY: Public Health Service, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The notice of proposed rulemaking proposes to add a new Subpart B to Part 51a of Title 42, Code of Federal Regulations. The purpose of the new Subpart B of Part 51a is to establish regulations governing grants to State agencies for special projects of regional or national significance which may contribute to the advancement of maternal and child health or crippled children's services under Sections 503(2) and 504(2) of the Social Security Act (42 U.S.C. 703(2) and 704(2)). All interested parties are invited to submit written comments, suggestions, or objections concerning the proposed regulations.

DATE: Comments must be received by December 29, 1977.

ADDRESS: Comments should be submitted to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6–17, 5600 Fishers Lane, Rockville, Md. 20857. All comments received in timely response will be considered and will be available for public inspection in the above-named office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Vince L. Hutchins, Associate Bureau Director, Office for Maternal and Child Health, Bureau of Community Health Services, Health Services Administration, Room 7–15, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–6600.

SUPPLEMENTARY INFORMATION: Sections 503(2) and 504(2) of the Act provide that funds shall be available for grants to State agencies which are administering or supervising the administration of a State plan for maternal and child health and crippled children's services. (This legislation also authorized such project grants to institutions of higher learning. Regulations covering these grants have been promulgated as Subpart D of Part 51a of Title 42, Code of Federal Regulations.) This authority has been used to fund a broad array of projects to improve maternal and child health and crippled children's services. To be eligible as a project of regional or

national significance, the project is to develop and demonstrate innovative methods of delivery of maternal and child health and crippled children's care and services, develop a broad range of services, increase the availability of services, promote effective utilization of personnel, and increase information in an area which is to be served by the project.

It is proposed to amend Part 51a of Title 42 by adding thereto a new Subpart B, as set forth below.

NOTE.—The Department of Health, Education, and Welfare 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: October 13, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 21, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart B—Project Grants to State Agencies

Sec.
51a.201 Applicability.
51a.202 Definitions.
51a.203 Eligibility.
51a.204 Application for a grant.
51a.205 Project elements.
51a.206 Grant evaluation and award.
51a.207 Use of project funds.
51a.208 Grant payments.
51a.209 Confidentiality of information.
51a.210 Grantee accountability.
51a.211 Performance report.
51a.212 Applicability of 45 CFR Part 74.
51a.213 Additional conditions.

AUTHORITY: Sections 503(2) and 504(2) of the Social Security Act; 81 Stat. 922 (42 U.S.C. 703(2) and 704(2)); section 1102 of the Social Security Act, 49 Stat. 647 as amended (42 U.S.C. 1302).

Subpart B—Project Grants to State Agencies

§ 51a.201 Applicability.

The regulations of this subpart are applicable to grants authorized by sections 503(2) and 504(2) of the Social Security Act [42 U.S.C. 703(2) and 704(2)] to State agencies for projects of regional or national significance which may contribute to the advancement of maternal and child health or crippled children's services.

§ 51a.202 Definitions.

As used in this subpart: (a) "Act" means the Social Security Act, as amended (42 U.S.C. Chapter 7).

(b) "Crippled children's services" means (1) the early location of crippled children; (2) the provision for such children of preventive, diagnostic and treatment services, including medical care, hospitalization and other institutional care and aftercare, appliances and facilitating services directed toward the diagnosis of the condition of such children or toward the restoration of such children to maximum physical and mental health; (3) the development, strengthening, and improvement of standards and techniques relating to the provisions of such care and services; (4) the training of personnel engaged in the provision, development, strengthening, or improvement of such care and services; and (5) necessary administrative services in connection with the foregoing.

(c) "Facilitating services" means transportation, subsistence away from home, drugs, biologicals, communications, supplies and equipment as may be necessary for the provision of maternal and child health or crippled children's services.

(d) "Maternal and child health services" means (1) the provision of educational, preventive, diagnostic and treatment services, including medical care, hospitalization and other institutional care and aftercare, appliances and facilitating services directed toward reducing infant mortality and improving the health of mothers and children; (2) the development, strengthening and improvement of standards and techniques relating to such services and care; (3) the training of personnel engaged in the provision, development, strengthening, or improvement of such services and care; and (4) necessary administrative services in connection with the foregoing.

(e) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(f) "State" means the several States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(g) "State agency" means the official agency of a State administering or supervising the administration of a State plan for maternal and child health or crippled chlidren's services under Subpart A of this Part.

§ 51a.203 Eligibility.

(a) Any State agency is eligible to apply for grants under this subpart for special projects of regional or national significance which may contribute to the advancement of maternal and child health or crippled children's services including mental retardation services.

(b) A project may be of regional or national significance if it:

(1) Increases the availability of services for improving the health of mothers and children, including crippled children, on a regional or national level or both;

(2) Develops and demonstrates a broad range of preventive, diagnostic, and treatment services which will improve the health of mothers and children, including crippled children on a regional or national level or both;

(3) Develops and demonstrates innovative methods which will improve and increase the provision of maternal and child health and crippled children's services on a regional or national level or both;

(4) Promotes more effective utilization of personnel providing health services to mothers and children; or

(5) Increases the scope and availability of information for use (or potential use) in the provision of maternal and child health and crippled children's services on a regional or national level or both.

§ 51a.204 Application for a grant.

An application, to be approvable under this subpart, shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe, and shall contain the following:

(a) A full description of the intended project, including the activities which the applicant intends to carry out, and the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart;

(b) A description of the objectives to be accomplished within specified time periods, and a description of the methodology to be used to measure achievement of such objectives;

(c) An assessment of need for the proposed activities, including, as appropriate,

(1) A description of existing resources to meet these needs on a regional level; or

(2) A description of existing resources to meet these needs on a national level.

(d) An assessment of the regional or national significance of the project's objectives as specified in § 51a.203(b).

(e) A plan for the utilization and dissemination of information gained by the project which may contribute to the advancement of maternal and child health and/or crippled children's services;

(f) A budget and a fiscal plan for assuring effective utilization of grant funds and a justification of the amount of funds requested;

(g) A description of the proposed staffing pattern which will be employed to carry out the project, and a time-phased plan for hiring staff to meet the requirements of this part;

(h) A statement indicating how and the extent to which the project plans to meet each of the applicable requirements of § 51a.205;

(i) Evidence that the applicable requirements of Office of Management and Budget Circular No. A-95 have been satisfied;

(j) For projects which propose to provide or arrange for the provision of direct health services, evidence that such applications have been forwarded to the affected health systems agency(s) designated under Title XV of the Public Health Service Act with a request for review and comment; and

(k) The signature of the individual authorized to act for the State agency and to assume on behalf of the State agency the obligations imposed by the Act, the provisions of this subpart, and any additional conditions of the grant award.

§ 51a.205 Project elements.

(a) Each project supported under this subpart shall: (1) Provide or arrange for the provision of those maternal and child health and/or crippled children's services which are necessary to achieve project objectives and which are specified in the grant award;

(2) Evaluate its progress toward the achievement of project objectives within time periods as specified in the grant award;

(3) Recruit personnel necessary to meet the requirements of this part in accordance with the plan submitted pursuant to § 51a.204(g);

(4) Assure that staff professionals and other staff meet all applicable licensure, certification or other legal requirements for the practice of their professions; and are in substantial accordance with national standards as accepted by the Secretary or standards prescribed by the Secretary.

(5) Provide in-service and/or short-term training programs, as appropriate, for project personnel;

(6) Make reasonable efforts to obtain local participation (e.g., health professionals, service providers, consumers, representatives from public or nonprofit private agencies) in the development and operation of the project;

(7) Coordinate project activities with other health, education, and welfare programs to ensure that currently available resources are not duplicated;

(8) Utilize other Federal, State, local, and private resources available for support of the project prior to the use of grant funds under this subpart;

(9) Establish basic statistical data, cost accounting, management information, and reporting systems which shall enable the project to provide statistics and other information as the Secretary may reasonably require, and to make such reports to the Secretary in a timely manner with such frequency as the Secretary may reasonably require; and

(10) Operate the project in a manner which preserves human dignity;

(b) Each project which provides or arranges for the direct provision of health services shall:

(1) Make services available without the imposition of any durational residency or specific referral requirement (except as may be described in a project application and approved by the Secretary);

(2) Have prepared a schedule of fees and payments for the provision of its services in accordance with the schedule of the Title V State plan of the State in which the project is located. *Provided*, That charges are not a barrier to the delivery of services and that preventive and diagnostic services are made available without charge to the patient or family; and

(3) Review the quality of health care provided by the project;

(4) Assure that facilities meet all applicable safety or other legal requirements;

(5) Provide or arrange for facilitating services as may be necessary to achieve the objectives of the project;

(6) Provide services (such as health education, outreach, and interperters) which promote and facilitate optimal use of the services of the project.

§ 51a.206 Grant evaluation and award.

(a) Within the limit of funds determined by the Secretary to be available for such purposes, the Secretary will award grants under this subpart to applicants whose projects will, in his judgment, best promote the purposes of Sections 503(2) and 504(2) of the Act, taking into account:

(1) The extent of regional and/or national significance of the activities to be carried on by the project as reflected by the objectives set for the project pursuant to § 51a.203;

(2) The need for services to be provided by the project in the region in which the project is located, and/or in the Nation;

(3) The resonableness of the budget and the soundness of the fiscal plan for assuring effective utilization of grant funds;

(4) The capability of the applicant to perform the activities proposed in the application, the qualifications of the staff or proposed staff in relation to the activities to be carried out, and the adequacy of the facilities available for the project; and

(5) The extent to which the application provides for implementing each of the requirements of § 51a.205.

(b) The amount of any award under this subpart will be determined by the Secretary on the basis of his estimate of the sum necessary for a designated portion of project costs; except that no grant shall be made for an amount in excess of the total cost as found necessary by the Secretary for the carrying out of the project.

(1) In determining the share of project costs to be borne by the grantee, the Secretary will consider the following factors:

(i) The ability of the grantee to finance its share of project costs from non-Federal sources; and

(ii) The need of the area served by the project for the services to be provided.

(2) At any time after approval of an application under this subpart, the Secretary may retroactively agree to a lower share of project costs to be borne by the grantee than that determined pursuant to paragraph (b) of this section where he finds that changed circumstances justify a smaller contribution.

(3) In determining the grantee's share of project costs, if any, costs borne by Federal grant funds, or costs used to match other Federal grants, may not be included except as otherwise provided by law.

(c) All grant awards shall be in writing, and shall set forth the amount of funds granted, the project period, and the period for which support is recommended. The initial project period or competitive extension thereof for which support is recommended shall not exceed 5 years.

(d) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application.

§ 51a.207 Use of project funds.

(a) Any funds granted pursuant to this part, as well as other funds to be used in performance of the approved project, may be expended solely for carrying out the approved project in accordance with Sections 503(2) and 504(2) of the Act, the regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

(b) Project funds awarded under this part to operate a special project of regional or national significance may be used for, but need not be limited to, the following:

(1) The costs of obtaining technical assistance to develop the project, to improve its management capability, to establish an adequate data collection system, and to develop methodology for evaluation; and

(2) The cost of providing diagnostic and/or preventive health services to individuals in accordance with the regulations of this subpart.

(c) Prior approval by the Secretary of revisions of the budget and project plan is required whenever there is to be a significant change in the scope or nature of project activities.

§ 51a.208 Grant payments.

The Secretary shall, from time to time, make payments to a grantee or all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred in the performance of the project, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.[1]

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[1] Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d *et seq.*) and in particular section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing Title VI, which applies to grants under this part, has been issued by the Secretary of Health, Education, and Welfare, with the approval of the President (45 CFR Part 80). In addition, no person shall, on the grounds of age, sex, creed, or marital status (unless otherwise medically indicated), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity so receiving Federal financial assistance.

Attention is called to the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 51a.209 Confidentiality of information.

All information as to personal facts and circumstances obtained by the project staff in connection with the provision of services or other activities under the project shall be treated as privileged communication, shall be held confidential, and shall not be divulged without the individual's consent, except as may be otherwise required by applicable law (including this subpart) or necessary to provide services to the individual. Such information may be disclosed in summary, statistical, or other form which does not identify particular individuals.

§ 51a.210 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence, satisfactory to the Secretary, for expenditures for direct and indirect costs meeting the requirements of this part. However, when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct cost control.

(b) *Copyright royalties.* Copyright royalties shall be accounted for as provided in 45 CFR 74.44.

(c) *Grant closeout.*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section; and

(ii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 51a.211 Performance report.

A grantee shall submit a performance report meeting the requirement of 45 CFR 74.82(c), and a financial status report at the end of each budget period and the assigned project period.

§ 51a.212 Applicability of 45 CFR Part 74.

(a) The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part.

(b) In addition to the unallowable costs included under Subpart Q, 45 CFR Part 74, academic or vocational education for children, food (except that provided in connection with institutional care, and that provided for demonstration purposes or for special dietary products used for the treatment of inborn errors of metabolism), sanitation (except in demonstrations which have had prior approval), or clothing (such as gowns and aprons used by physicians, nurses, and other staff at clinics), or individual membership dues in any society or organization.

§ 51a.213. Additional conditions.

The Secretary may, with respect to any grant award, impose additional conditions, prior to or at the time of the award, when, in his judgment, such conditions are necessary to assure or protect advancement of the approved project, the interest of the public health, or the conservation of grant funds.

[FR Doc.77-34173 Filed 11-28-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21483; RM-2973]

FM BROADCAST STATION IN JERSEY SHORE, PENNSYLVANIA

Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to Jersey Shore, Pennsylvania. Petitioner, Jeffrey O. Schlesinger, states that the proposed station would provide the community with its first full-time local aural broadcast service.

DATES: Comments must be filed on or before January 3, 1978, and reply comments on or before January 23, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: Adopted: November 17, 1977.

Released: November 22, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Jersey Shore, Pennsylvania).

1. *Petitioner, Proposal, Comments:* (a) Petition for rule making [1], filed September 20, 1977, by Jeffrey O. Schlesinger ("petitioner"), proposing the assignment of Channel 249A to Jersey Shore, Pennsylvania, as a first FM assignment to that community. There were no responses to the petition.

(b) The channel could be assigned in full conformity with the minimum distance separation requirements.

(c) Petitioner states that he will file an application for a construction permit to construct an FM station if the channel is assigned.

2. *Community Data:* (a) *Location:* Jersey Shore is located in north central Pennsylvania, approximately 113 kilometers (70 miles) north of Harrisburg, Pennsylvania, and 19 kilometers (12 miles) west of Williamsport, Pennsylvania.

(b) *Population:* Jersey Shore, 5,322; Lycoming County, 113,296.[2]

(c) *Local Broadcast Service:* There is no local aural broadcast service in Jersey Shore.

(d) *Economic Considerations:* Petition states that the government of Jersey Shore is composed of a mayor and borough council. In support of his proposal, petition submitted demographic data and a profile of the local economy. He notes that agriculture is the principal occupation, particularly dairying. We are told the primary employers in Jersey Shore are Kelco Manufacturing Co., West Manufacturing Co., C & E Containers and Cobblers (a shoe company). He asserts that Jersey Shore needs a full-time broadcast facility for local self expression.

3. In view of the apparent need for a first local aural broadcast service in Jersey Shore, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Jersey Shore, Pennsylvania:

City	Channel No.	
	Present	Proposed
Jersey Shore, Pa.	.....	249A

4. Since Jersey Shore is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 249A to that community requires coordination with the Canadian Government.

5. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before January 3, 1978, and reply comments on or before January 23, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

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

[1] Public Notice of the petition was given on October 11, 1977, Report No. 1082.

[2] Population figures are taken from the 1970 U.S. Census.

amended, and Section 0.281(b)(6) of the Commission's Rules. IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. 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 as they are filed before the date for filing initial comments herein. If they are 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 Sections 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* to which this Appendix is attached. 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 Section 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, N.W., Washington, D.C.

[FR Doc.77-34213 Filed 11-28-77;8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for Four Fishes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Cahaba shiner (*Notropis* sp.), spring pygmy sunfish (*Elassoma* sp.), goldline darter (*Percina aurolineata*), and pygmy sculpin (*Cottus pygmaeus*) to be Endangered species and to identify Critical Habitat for these species. This action is being taken because of their decreased population levels and threatened modification of their habitat. The proposed action, if finalized, would protect the populations of these fishes and their habitat. The Cahaba shiner, spring pygmy sunfish, and pygmy sculpin are known only from Alabama. The goldline darter is known from Alabama and Georgia.

DATES: Comments from the public must be received by January 30, 1978. Comments from the Governors of States involved with this action must be received by February 27, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Endangered Species Act of 1973 states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanism; or

(5) other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under the five criteria of Section 4(a) of the Act. These factors, and their application to the fiur species of fishes, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*

(1) Cahaba shiner (*Notropis* sp.)—Proposed Endangered. This undescribed shiner is endemic to a short segment of the Cahaba River's main channel in central Alabama. In the Cahaba, the shiner is known only from 30 river miles in Bibb and Shelby Counties, Alabama. This species is the only vertebrate endemic to the Cahaba drainage basin.

The section of the Cahaba River inhabited by the Cahaba shiner has been severely degraded during the past 15 years. The major problem has been the degradation of water quality due to urbanization and coal strip mining. The urbanization activities in the headwaters have resulted in an increased silt load, while eutrophication has commenced in response to enrichment from newly constructed sewage treatment plants. The coal strip mining activity has resulted in an increase in an already high silt load. The habitat is clearly changing and the activities which have brought about the changes are continuing.

In a recent (1976) publication on Endangered and Threatened Plants and Animals of Alabama, the Cahaba shiner was listed as endangered.

(2) Spring pygmy sunfish (*Elassoma* sp.)—Proposed Endangered. The spring pygmy sunfish is presently known only from Beaverdam (Moss) Spring, Limestone County, Alabama. It was thought to be extinct until rediscovered in Beaverdam Spring in 1973 by Dr. David Etnier. The habitat is dense, submerged aquatic vegation in water six inches to two feet in depth.

The threats to the spring pygmy sunfish are pollution and siltation of Beaverdam Spring. Cultivation adjacent to the spring is contributing heavy silt loads, especially during periods of high runoff. In recent years pollution from insecticides have caused heavy fish kills in the area near Beaverdam Spring. Habitat alteration due to siltation and pollution apparently has led to the extirpation of the spring pygmy sunfish in two other springs.

The spring pygmy sunfish is listed as endangered in the 1976 publication "Endangered and Threatened Plants and Anmals of Alabama."

(3) Goldline darter (*Percina aurolineata*)—Proposed Endangered. The goldline darter is known only from the Cahaba and Coosawattee Rivers of the Mobile Basin. In the Cahaba drainage in central Alabama, it is known from several miles of the main channel between Centreville (Bibb County) and Helena (Shelby County) and from one locality on the Little Cahaba River in Bibb County. In the Coosawattee drainage in northwest Georgia, it is known from the main channel of the river above Coosawattee Falls in Gilmer County. The goldline darter's typical habitat is gravel tiers and shoals in the river proper, i.e., not its tributaries.

The goldline darter is threatened in the Cahaba by pollution from domestic, industrial waste and acid drainage from strip mining. The large volume of water presently being released into the Cahaba, as well as strip mine runoff, has greatly degraded the water quality in recent years. Proposals call for additional waste to be released into the Cahaba River in the near future. Any increase in the silt and nutrient load will seriously jeopardize the existence of the Cahaba popu-

lation of the goldline darter. The Coosawattee population of the goldline darter was adversely impacted when a portion of its habitat was inundated by a Corps of Engineers impoundment.

The goldline darter is considered as endangered in Alabama and threatened in Georgia.

(4) Pygmy sculpin (*Cottus pygmaeus*)—Proposed Endangered. The highly specialized pygmy sculpin's known habitat is Coldwater Spring and its immediate run and approximately 150 yards of Coldwater Creek below the spring. The spring is located west of Anniston, Calhoun County, Alabama. Coldwater Spring is used as a water supply for the city of Anniston, which presently has a pumping capacity of 22.5 million gallons per day. The spring's average flow is 32 million gallons per day with a range from 20 to 34 million gallons per day.

The threats to the pygmy sculpin include aquatic vegetation control in the spring and increased pumping. The young and adult sculpins have been observed in large numbers in the submerged aquatic vegetation. Elimination of the vegetation by chemical or biological methods would adversely impact the sculpin. Increased water demands in the future could force total utilization of the Coldwater Spring flow. The city of Anniston's Waterworks and Sewers Board is aware of the presence of the sculpin but has made no commitment to its protection.

In the past, the pygmy sculpin in Coldwater Creek was adversely impacted by the toxic waste from the U.S. Army's Anniston Ordinance Depot. In 1976 a treatment program was initiated to detoxify chemical waste flowing into Dry and Coldwater Creeks from the Ordinance Depot. It is too early to determine the success of this abatement program and its impact on the pygmy sculpin.

In a recent (1976) publication on Endangered and Threatened Plants and Animals of Alabama, the pygmy sculpin was listed as endangered.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable.

5. *Other natural or manmade factors affecting its continued survival.* Not applicable.

Critical Habitat

Section 7 of the Act, entitled "Interagency Cooperation", states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the Federal Register of April 22, 1975 (40 FR 17764–17765). After a review of the available information for these species, the areas delineated below were found to qualify as Critical Habitat. Specifically, these areas were found to have environmental elements necessary for successful reproduction and growth.

The areas delineated to not necessarily include the entire Critical Habitat of these fishes and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the Critical Habitat of the Cahaba shiner, spring pygmy sunfish, goldline darter, and pygmy sculpin.

All Federal departments and agencies shall, in accordance with Section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect Critical Habitat. Consultation pursuant to Section 7 should be carried out using the procedures contained in the "Guidelines to Assist the Federal Agencies in Complying with Section 7 of the Endangered Species Act of 1973" which have been made available to the Federal agencies by the Service.

Effects of the Rulemaking

In addition to the effects discussed above, the effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. These regulations are found at 50 CFR 17.21 and are summarized below.

With respect to the Cahaba shiner, spring pigmy sunfish, goldline darter, and pygmy sculpin in the United States, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the Federal Register of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and 17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to Section 4(b) of the Act, the Director will notify the Governors of Alabama and Georgia with respect to this proposal and request their comments and recomendations before making final determinations.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Cahaba shiner, spring pygmy sunfish, goldline darter, and pygmy sculpin;

(2) The location of and reasons why any habitat of the Cahaba shiner, spring pygmy sunfish, goldline darter, and pygmy sculpin should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of the Cahaba shiner, spring pygmy sunfish, goldline darter, and pygmy sculpin.

Final promulgation of the regulations on the Cahaba shiner, spring pygmy sunfish, goldline darter, and pygmy sculpin will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. James D. Williams, Office of Endangered Species 202–343–7814.

AUTHORITY

These amendments are prepared under Sections 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1533, 1536).

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11 by adding, in alphabetical order, under Fishes, the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Fish:							
Darter, goldline	*Percina aurolineata.*	NA	U.S.A. (Alabama, Georgia).	Entire	E		NA
Sculpin, pygmy	*Cottus pygmaeus*	NA	U.S.A. (Alabama).	do	E		NA
Shiner, Cahaba	*Notropis* sp.	NA	do	do	E		NA
Sunfish, spring pygmy.	*Elassoma* sp.	NA	do	do	E		NA

§ 17.95 [Amended]

2. Also, the Service proposes to amend § 17.95(e) *Fishes* by adding Critical Habitat of the Cahaba shiner after that of the spotfin chub as follows:

CAHABA SHINER

(*Notropis* sp.)

Alabama. Bibb and Shelby Counties. Main channel of Cahaba River from U.S. Highway 82 crossing at Centreville, Bibb County, upstream to Shelby County Highway 52 west of Helena. Bibb County Main channel of Little Cahaba River from its junction with the Cahaba River upstream to Bibb County Highway 10 crossing each of Piper.

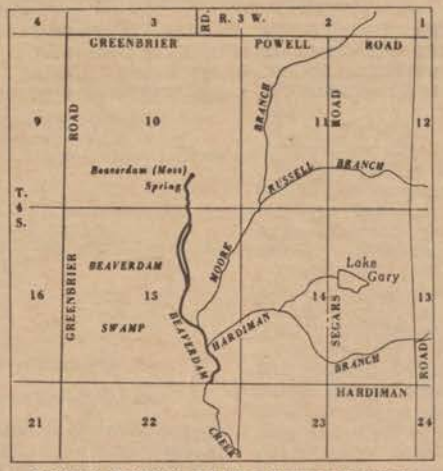
Critical Habitat for the Cahaba Shiner

3. § 17.95(e), *Fishes* is further amended by adding Critical Habitat of the spring pygmy sunfish after Alabama cavefish as follows:

PYGMY SUNFISH

(*Elassoma* sp.)

Alabama. Limestone County. Beaverdam (Moss) Spring and run from its origin in the southwest ¼ of Section 10 (Township 4 South, Range 3 West) downstream through Section 15 (Township 4 South, Range 3 West) to the boundary line between Section 15 and 22.



Critical Habitat for the Pygmy Sunfish

4. § 17.95(e) Fishes is further amended by adding Critical Habitat of the goldline darter after that of the slackwater darter as follows:

GOLDLINE DARTER

(*Percina aurolineata*)

Alabama. Bibb, Shelby, and Jefferson Counties. Main channel of Cahaba River from U.S. Highway 82 crossng at Centreville, Bibb County, upstream to U.S. Highway 31 crossing south of Birmingham, Shelby County.

Critical Habitat for the Goldline Darter

5. § 17.95(e) Fishes is further amended by adding Critical Habitat of the pygmy sculpin after that of the snail darter as follows:

PYGMY SCULPIN

(*Cottus pygmaeous*)

Alabama. Calhoun County. Coldwater Spring and run in the south ½ of Section 29 (Township 16 South, Range 7 East). Coldwater Creek from the junction of Coldwater Spring run downstream to U.S. Highway 78 crossing in the north ½ of Section 32 (Township 16 South, Range 7 East).

Critical Habitat for the Pygmy Sculpin

NOTE.—The 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.

Dated: November 18, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77-34122 Filed 11-28-77;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.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

THE NEPA PROCESS

Request for Comments

The Forest Service is revising the guidelines for implementation of the National Environmental Policy Act of 1969 (NEPA) Pub. L. 91-190.

This revision is intended to provide direction, to be set forth in an amendment to the Forest Service Manual, that will make Forest Service implementation of NEPA more efficient and effective and to better integrate environmental analysis and decisionmaking.

Comments should be submitted on or before December 29, 1977, to the Chief, Forest Service, P.O. Box 2417, Washington, D.C. 20013.

For further information, contact Roy W. Feuchter, Environmental Coordinator, U.S. Department of Agriculture, Forest Service, Washington, D.C. 202-447-4708.

A highlight of the proposed revision is that the material is generally organized to follow the sequence of the decision process in the Forest Service. It provides the same outline for environmental analysis reports and environmental statements and attempts to focus upon the total decisionmaking process rather than on the environmental analysis report and environmental statement documents. To strengthen the NEPA role in decisionmaking, it provides for filing the notice of decision with the final environmental statement.

The proposed policy amendment to the Forest Service Manual is set forth as follows.

JOHN R. MCGUIRE,
Chief.

TITLE 1900—PLANNING

CHAPTER 1950—THE NEPA PROCESS

CONTENTS

TITLE 1900—PLANNING

CHAPTER 1950—THE NEPA PROCESS

Environmental analysis is an integral part of the Forest Service planning/decisionmaking/NEPA process. This chapter describes the analysis and decision processes and the statements or reports which document these processes.

These instructions constitute Forest Service direction for implementing the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190. They are based upon: Existing legislation; Executive Orders; Council on Environmental Quality Regulations; and, Secretary of Agriculture memoranda and guidelines.

1950.1—*Authorities.* The Forest Service is authorized and directed by the NEPA to create and maintain conditions under which man and nature can exist in productive harmony, and to fulfill social and economic needs of present and future generations of Americans.

Several laws require a systematic, interdisciplinary approach to planning and decisionmaking (National Environmental Policy Act, Resource Planning Act, National Forest Management Act). The NEPA requires detailed statements on proposed major Federal actions significantly affecting the quality of the human environment (section 102(2)(C)).

The Federal Land Policy and Management Act of 1976 (Pub. L. 94-579) authorizes deposits by outside agencies, organizations and individuals for the reasonable cost of special studies, environmental statements and monitoring incurred or resulting from the issuance of rights-of-way under that Act.

1950.2—*Objectives.* Objectives of the Forest Service NEPA process are to:

1. Meld the NEPA and decisionmaking together and thus provide, through environmental analyses and the documenting reports, for planning and decisionmaking.

2. Provide careful and appropriate consideration of environmental concerns in planning and decisionmaking.

3. Provide for participation of other agencies, organizations, and individuals having environmental responsibilities, expertise, or interest early in the process.

4. Assure that the planning/decisionmaking/NEPA process is open and available for public review. Make the sequence of planning and decision steps visible.

5. Identify a preferred alternative from a range of alternative plans, programs, or projects.

6. Determine if there is a need for an environmental statement.

7. Emphasize the total decisionmaking process rather than the documents.

8. Provide a basis for determining management requirements, mitigation measures, contract provisions, or stipulations.

1950.3—*Policies.* An environmental analysis will be made for decisions about activities affecting resources, other land uses, or the quality of the human environment.

The analysis is documented in either an environmental analysis report (EAR) or an environmental statement (ES). (See FSM 1952). Documentation of the analysis may vary according to the judgment of the line officer, from a brief EAR to an ES. Documents must present a clear, concise, and logical explanation of: (a) the need for the action; (b) the alternatives; (c) anticipated effects of alternatives; (d) the criteria for evaluation of alternatives; and, (e) the preferred alternative. There must be sufficient information for the responsible official to under the anticipated physical, biological, economic, and social changes in the human environment.

The analysis process will impartially consider a reasonable range of alternatives and the potential environmental effects associated with each alternative.

An interdiscipinary approach shall be used to integrate the natural and social sciences and the environmental design arts in planning and decisionmaking.

The environmental analysis serves as the basis for decision. The EAR or ES should replace, and not duplicate, other reports that are designed to serve the same purpose.

The environmental analysis will be conducted as early as possible, and provides the

basis for the decision, recommendation, or favorable report on proposed legislation. The EAR or ES will document the analysis, and identify the line officer responsible for the decision.

The line officer responsible for the proposed action determines if the EAR or ES provides enough information for the decision.

Other agencies, organizations, and individuals having environmental responsibilities, expertise, or interest will be consulted early in the analysis process. The A-95 project notification process shall be used to notify State and local agencies (FSM 1565). Consultations will be documented.

Costs of environmental analyses and documenting reports for in-Service originated programs or projects are a part of the regular budgetary process for the program or project. Where necessary to expedite analysis and documentation of out-Service proposals, proponents may deposit funds to cover the reasonable costs of activities associated with their proposals when issuance of a right-of-way under the Federal Land Policy and Management Act of 1976 is involved.

1950.4—*Responsibilities.* The line officer responsible for the decision is responsible for the environmental analysis and its documentation. This includes determination of the need for an environmental statement.

Project proponents may be requested to provide data and documentation.

The Chief is responsible for environmental statements relating to legislation and selected national programs.

Programs and Legislation Staff, Washington Office, will maintain a complete file of Forest Service environmental statements. They will assist in processing statements as needed.

Responsibility for Forest Service environmental analysis, reports, and statements follows the delegations of authority specified in FSM 1230. Responsibility for the proposed action determines responsibility for the environmental analysis.

Regional Foresters, Area Directors, Station Directors, Forest Supervisors, and District Rangers are responsible for determining the need for environmental analysis and preparation of EAR's or ES's within their areas of responsibility.

When more than one agency shares the responsibility for the decision, a "lead agency" is identified. The lead agency is the Federal agency having primary authority for committing the Federal Government to an action (40 CFR 1500.7a). The lead agency is responsible for documenting the analysis by one or more agencies. If the question of lead agency cannot be resolved at field levels, the Chief will work with the Department and the Council on Environmental Quality to resolve the question. When agencies have separate responsibilities but related decisions, a single interagency environmental analysis and document may be prepared. When this is done, the EAR or ES will name the responsible official for each agency and will identify their separate responsibilities. Where National Forest System lands are involved, the Forest Service will exert a strong role in the environmental analysis process. Other factors which determine the lead agency include:

1. Expertise regarding the project's environmental effects.

2. Extent of involvement for evaluating the entire project.

3. Time sequence in which the agencies become involved in the project. (Preparation of the environmental statement before any of the participating agencies have taken major or irreversible action with respect to the project is especially critical.)

1950.5—*Definitions.* In addition to the definitions shown below, also see the "Wildland Planning Glossary," General Technical Report PSW-13, Pacific Southwest Forest and Range Experiment Station, 1976.

Activity. The work processes that are conducted to produce, enhance, or maintain outputs or achieve administrative and environmental quality objectives.

Decision. An action by the responsible official to approve, disapprove, modify, or adopt a proposed plan, program, or project.

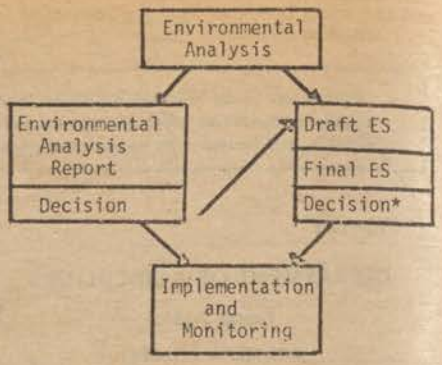
Environmental analysis. An interdisciplinary activity that (1) estimates potential changes in the physical, biological, economic, and social components of the human environment resulting from implementation of legislation, plans, programs, or projects, and (2) evaluates these changes against the evaluation criteria. The analysis focuses upon the quality of the human environment.

Environmental analysis report (EAR). A written report that document the environmental analysis, including the decision about the need for an environmental statement and serves as the basis for approval or disapproval of a proposed plan, program, or project. It clearly, concisely, and logically describes the alternative plans, programs, or projects considered; their anticipated effects; consultation with others, and the rationale for decisions or recommendations.

Environmental design arts (sec. 102(a) NEPA). The environmental design arts are practices by those disciplines (such as architecture, civil and environmental engineering, and landscape architecture) which directly influence the physical environment as a result of the design of projects of all kinds.

Environmental statement (ES). A written report that documents the environmental analysis for proposed legislation or other major Federal actions significantly affecting the quality of the human environment. Statements are parpared first in draft form—the draft environmental statement (DES) and then in final form—the final environmental statement (FES). The ES clearly, concisely, and logically describes the alternative plans, programs, or projects considered, their anticipated effects, consultation with others, and the rational for the decision. A FES differs from the DES by responding to DES review comments and incorporating any new information. The FES identifies the alternative proposed for implementation if this was not shown in the DES. The FES is also used by the responsible official to meet the requirements of the NEPA and serve as the basis for the decision.

The relationship between the environmental analysis, the environmental analysis report, the environmental statement, the decision and implementation is shown in the diagram below.



*The decision notice is attached to the FES and filed with CEQ.

Evaluation criteria. Predetermined rules for appraising alternatives in order of desirability.

Human environment. The physical, biological, economic and social factors affecting people.

Implementation. Those activities necessary to respond to the decision.

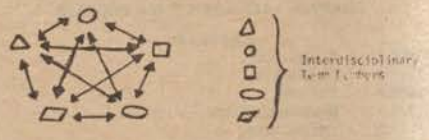
Monitoring. Activities taken to insure that (1) environmental safeguards are executed according to plan; (2) necessary adjustments are made in order to achieve desired environmental effects; and, (3) information is collected to improve Forest Service planning and decisionmaking.

Notice of negative determination. A written document, sent to the Council on Environmental Quality and published in the Federal Register that briefly describes the reason an environmental statement is not prepared under certain specified conditions (See FSM 1952.12d). This notice should not be confused with the following documentation of the evaluation of need for an ES in the environmental analysis process and as mentioned in FSM 1951.7.

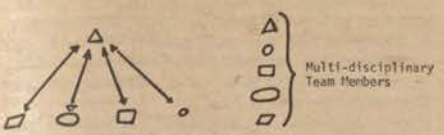
Documentation of need for ES (see FSM 1952.12d). A decision, as a result of an environmental analysis, that an environmental statement is not necessary. It appears in the EAR but is not filed with CEQ.

1951—*Environmental analysis process.* An environmental analysis must be completed systematically to insure that the required information flows from one step to the next. This ensures a logical process leading to identification of a preferred alternative. The environmental analysis process is divided into separate, but interrelated steps. It is an iterative process with feedback flowing through the completed steps. Steps may be combined or expanded depending on the situation.

An environmental analysis utilizes skills of different disciplines. An interdisciplinary team is assembled because no single scientific discipline is sufficient to adequately identify and resolve issues and problems. Team member interaction provides the necessary insights to all stages of the process. This interaction is illustrated below.



At times, individual assignments are made and the team operates in a multi-disciplinary fashion as illustrated below.



Interaction between team members does not occur as frequently with multi-disciplinary processes. From time to time, shifts are made between interdisciplinary and multi-disciplinary team action. An interdisciplinary approach should predominate throughout environmental analysis.

The major steps and recommended roles of participants in environmental analysis and subsequent actions are shown in the following chart:

Environmental analysis	Role		
	Line officers	Interdisciplinary team	Agencies, organizations, and individuals
1. Identify issues, concerns, and the need for a decision.	Responsible	Recommend	Recommend.
2. Gather related information.	Review	Responsible	Provide information.
3. Develop evaluation criteria.	Responsible	Recommend	Recommend.
4. Formulate alternatives	Review	Responsible	Recommend.
5. Analyze implememtation effects.	Review	Responsible	Provide information.
6. Evaluate alternatives	Review	Responsible	Provide information.
7. Identify the preferred alternative.	Responsible	Recommend	Recommend.
Documentation	Review	Responsible	Review and Recommend.
Decision	Responsible	Recommend	Review.
Implementation and monitoring.	Responsible	Review	Assist.

1951.1—*Public participation.* Public involvement is an integral part of the planning/decisionmaking/NEPA process. Inform and involve plans must be developed to respond to the proposed action, the situation, and the decision. Public participation may be involved in each step of the environmental analysis process. See FSM 1626 and Inform and Involve Handbook, draft, August 1977.

1951.2—*Identify issues, concerns, and the need for a decision.* The planning/decisionmaking/NEPA process begins by identifying the major issues or concerns and the need for analysis and a decision. An issue is a point, matter, or question to be disputed or decided.

Interested or affected agencies, organizations, and individuals often assist in identifying issues and their importance.

Issues and concerns may originate at national, regional, or local levels, or in the implementation of higher-order plans. Forest Service plans, programs, or projects are the response to major issues and concerns.

Issue descriptions set the stage for subsequent analysis steps. It is not unusual for new issues to appear, or initial issues to be changed, modified, or dropped as the analysis proceeds.

1951.3—*Gather related information.* After the issues are identified, appropriate data must be gathered to provide information relating to the issues. The type and amount of information depends on the issues. The data should focus on those physical, biologic, economic, social, and other factors necessary for the analysis. Sources of information should be documented.

1951.4—*Develop evaluation criteria.* Evaluation criteria are developed on the basis of:

1. Laws, Executive orders, and regulations.
2. Objectives and policies from higher-order plans and policy statements.
3. Program objectives.
4. Tests of legal, technical, financial, economic, and political feasibility.
5. Public recommendations.

Gathering information often clarifies the initial issues and concerns and requires their revision. Using these revised issues and concerns, laws, plans, and programs, it is possible to establish criteria for use in evaluating alternatives.

Evaluation criteria are established early in the analysis process and are subject to revision as the analysis proceeds. Early identification of evaluation criteria assists in formulation of alternatives and analysis of implementation effects. It also provides an opportunity for others to comment, suggest modifications, and recommend criteria that might have been omitted.

Evaluation criteria should not restrict alternative formulation by prematurely ruling out realistic alternatives. They should help eliminate infeasible alternatives, however.

The sources of evaluation criteria (laws, higher-order plans, etc.) should be documented.

1951.5—*Formulate alternatives.* Alternatives are developed to provide different ways in which major issues and concerns can be addressed while responding to objectives from legislation or higher-order plans, programs, and policies.

The range of alternatives must be broad enough to include major issues and concerns. Care should be taken to insure that the range of alternatives do not prematurely foreclose options which might enhance environmental quality or have fewer detrimental effects. The alternative of taking no action (no change) should always be considered.

Public participation is important in formulating alternatives. The extent of participation depends on issues, and the kind and magnitude of the decision.

Alternatives are often modified and new alternatives developed as the environmental analysis proceeds.

Alternatives should include management requirements and mitigating measures needed to avoid adverse environmental effects.

Alternatives should be fully and impartially developed for subsequent analysis and evaluation.

1951.6—Analyze implementation effects. In this step, the effects of implementing each alternative are estimated. Direct, indirect, and cumulative effects should all be considered. Effects are expressed in terms of outputs, costs, and changes in the physical, biological, economic, and social components of the human environment for each alternative.

It is not always necessary to deal with all factors of all components of the human environment. The effects considered in analysis should be only those pertinent to the issues, concerns, and the evaluation criteria.

Of the effects to be considered, the following should be analyzed for all alternatives; although not necessarily under separate headings:

1. The relationship between local, short-term uses of the human environment and the maintenance and enhancement of long-term productivity. (Sec. 102 NEPA.)
2. Adverse environmental effects which cannot be avoided. (Sec. 102 NEPA.)
3. Resource commitments that are irreversible and irretrievable.

The term "irreversible" applies primarily to the use of nonrenewable resources, such as minerals or to those factors which are renewable only over long time spans, such as soil productivity. "Irreversible" also includes loss of future options.

The term "irretrievable" applies to losses of production, harvest or use of renewable natural resources. For example, some or all of the timber production from an area is irretrievably lost while an area is used as a winter sports site. If the use is changed, timber production can be resumed. The production lost is "irretrievable," but the action is not irreversible.

4. Effects upon minority groups and civil rights. (Secretary's Memorandum 1662, Supplement 4 and OMB Circular A-19.)
5. Effects upon prime farmland, range, and forest lands (Secretary's Memo No. 1827, Supplement No. 1 of 6-21-76.)

1951.7—Evaluate alternatives. This step compares the alternatives in terms of how the effects of implementation relate to the evaluation criteria. Expected outputs, costs and physical, biological, economic, and social changes are evaluated against objectives and other criteria.

This evaluation becomes a basis for the selection of a preferred alternative. the evaluation includes the need for an ES. Because evaluation involves judgment, the line officer should review this step. A clear, concise record of the evaluation is necessary.

1951.8—Identification of the preferred alternative. The responsible official identifies a preferred alternative. Identification is based on the analysis, the evaluation, and professional judgment which considers the public's recommendations. The rationale used in identification of the preferred alternative must be documented.

Identification of a preferred alternative, before issuing a DES is optional. A preferred alternative must be identified before issuing an EAR or FES.

1952—Environmental Analysis Documentation. This section discusses analysis reports and environmental statements. These documents describe the results of the environmental analysis process and should focus attention on the process, rather than on the document.

1952.1—When required. Whenever an environmental analysis is conducted, it will be

documented in either an EAR, or ES, except for those minor day to day actions where a file is not maintained.

1952.11—Environmental analysis report (EAR). When the environmental analysis determines that an ES is not necessary, the analysis will be documented in an EAR.

1952.12—Environmental statement (ES). An ES will be prepared when the environmental analysis so indicates. Environmental statements shall be prepared and submitted with every recommendation or favorable report relating to legislation, and for other major Federal actions significantly affecting the quality of the human environment if not already adequately addressed in the NEPA process.

1952.12a—Changes in inventoried roadless area wilderness character. Environmental statements will be prepared to cover any action that will permanently change the wilderness character of inventoried roadless areas. See FSM 8260 for additional direction.

1952.12b—All Other Situations. The need for an ES for all other situations will be determined through the environmental analysis process. This determination will be based upon the significance of the environmental effects upon the quality of the human environment and that have not been adequately addressed in some other environmental statement.

Significance must be addressed on an individual basis by analyzing the effects projected for that particular situation (See FSM 1951.6). The environmental statement process should not be diluted by preparing statements for activities whose effects, although of a permanent nature, would not be of serious consequence to the human environment. These activities are more properly addressed in an EAR.

1952.12c—Notice of environmental statements under preparation. When it is determined that an ES is needed, the responsible official will publish a notice of this determination in a newspaper of general circulation in the area affected by the decision. A list of environmental statements under preparation by each administrative unit will be maintained in the office of that unit. Composite lists will be maintained at Regional, Area and Station Offices and the Washington Office—one list of all Enviromental Statements under preparation will be sent to the CEQ quarterly. Lists will be updated quarter by December 15, March 15, June 15, and September 15. See Section 220, FSH 1909.15—The NEPA Process Handbook.

1952.12d—Negative determination. If the responsible official decides that an environmental statement is unnecessary for a proposed action (a) which would normally require preparation of a statement (FSM 1952.12 and 1952.12a), (b) which is similar to actions for which a significant number of environmental statements have been prepared, (c) for which it had been previously announced that there would be a statement (FSM 1952.12c), or (d) for which a negative determination has been made in response to a request from CEQ, a Notice of Negative Determination will be prepared. It will briefly explain the reasons for the decision.

Negative determination notices shall be sent to the Chief, to the CEQ, and published in the FEDERAL REGISTER. Various publics who have indicated an interest in the proposed action should be notified.

See section 200, FSH 1909.15.—The NEPA Process Handbook, for additional direction.

This notice of negative determination is only used in the four situations described above. It should not be confused with the documentation of the evaluation of need for an ES in the environmental analysis process.

1952.2—*Outline.* Environmental analysis reports and environmental statements generally will conform to the following outline. The outline follows the sequence of steps in the environmental analysis process (FSM 1951).

Sections of the outline may be combined or rearranged in the interests of clarity and conciseness.

EAR OR ES OUTLINE

TITLE PAGE

1. Summary (Optional)
2. Table of Contents
3. Introduction
4. Environmental Setting
5. Evaluation Criteria
6. Alternatives Considered
7. Effects of Implementation
8. Evaluation of Alternatives
9. Identification of the Preferred Alternative
10. Management Requirements and Constraints (EAR primarily)
11. Consultation With Others
12. Evaluation of Need for an Environmental Statement (EAR only)
13. Appendix

1952.3—*Contents.* Writers of environmental analysis reports or environmental statements should use FSH 1109.12 Directive Preparation Handbook, as a guideline. Writers should be concerned with content, clarity, and brevity. Inclusion by reference should be freely used to reduce size and length.

1. *Summary.* A summary is desirable for lengthy and detailed environmental analysis reports or environmental statements. The responsible official will determine the need for a summary. See section 210, FSH 1909.15, for an example of the summary.

2. *Table of contents.* Self-explanatory.

3. *Introduction.* The introduction describes the nature of the decision to be made and proposed activity and should be brief. A map showing the general location of the plan or project should be included. Major issues, concerns and essential background information are presented if important to understanding the decision.

4. *Environmental setting.* The environmental setting describes current and expected future physical, biological, economic, and social factors in the subject area being considered. (See FSM 1951.3.)

The description should be limited to information related to major issues and concerns. When other published material adequately describes the factors, refer to the publication and do not repeat the description in the EAR/ES. This section should clarify, not obscure, understanding.

5. *Evaluation criteria.* (See FSM 1951.4.) This section describes the policies, objectives, and tests of feasibility used to evaluate alternatives. The sources of these criteria should be shown.

6. *Alternatives considered.* This section is usually in two parts: The first briefly describes the process used in formulating the alternatives; and the second describes each alternative.

The detail of description should be similar for all alternatives.

7. *Effects of implementation.* This section describes consequences of implementing each alternative in terms of outputs, costs, and environmental changes. Objectivity is important. Significant differences of opinion should be discussed.

The description should:

a. Identify the assumptions used in estimating effects of implementation.

b. Make use of appropriate technical and specialized analyses and data. Cite sources used instead of including lengthy analyses in the EAR/ES.

c. Express expected environmental changes in quantitative or qualitative means as applicable, as necessary to indicate relative significance of the changes.

d. Indicate the expected outputs, in terms of goods and services, that will result from implementing each alternative. Express the outputs in service-wide standard terminology. See FSH 1309.11 Management Information Handbook. Use RPA program planning time periods.

e. Indicate estimated Forest Service expenditure for implementing each alternative by one or more RPA program planning periods. Other public and private costs may be shown, as necessary.

f. Discuss significant effects or changes in physical, biological, economic and social components of the human environment. This includes direct, indirect, cumulative, and unavoidable adverse effects, long- and short-term relationships, and irreversible and irretrievable resource commitments. It is not mandatory to use separate headings for these items.

8. *Evaluation of Alternatives.* This section discusses how the alternatives compare with each other in terms of the evaluation criteria. This provides the basis for identification of a preferred alternative.

9. *Identification of Preferred Alternative.* This section identifies the preferred alternative and the rationale for preference. If a preferred alternative is not identified in the DES, explain why.

10. *Management Requirements and Constraints* (in EAR primarily). This section summarizes management requirements and mitigating measures of the preferred alternative for use in project design and permit or contract requirements.

11. *Consultation With Others.* List the agencies, groups, and individuals consulted during the analysis and summarize their comments. This discussion should relate to issues and information received and not be directed solely to responses and rebuttals. It is the information relating to the issues that is important, not the agency, organization, or individual who presented them.

All substantive comments from National, State, and local agencies and National organizations shall be included in the appendix of the FES. Copies of all other substantive comments received on the DES should generally be included in the FES. If these are exceptionally voluminous, they may be summarized. Copies of all review comments should be available for public review and in-Service use, in the office of the responsible official or the administrative unit affected by the plan.

12. *Evaluation of Need for an Environmental Statement.* All environmental analysis reports will document the determination of the need for an environmental statement. The rationale for the recommendation will be documented.

13. *Appendix.* Appendix material should be brief and include only items pertinent to understanding the report or statement. Locations of reference materials or lengthy or detailed analyses referred to in the EAR or

ES text but not included in the Appendix should be shown.

1952.4—*Processing.*

1952.41—*Environmental Analysis Reports.* Regional Foresters, Area and Station Directors should develop procedures for processing environmental analysis reports. These procedures may include public distribution.

1952.42—*Notice of Negative Determination.* See FSM 1952.12d and section 200, FSH 1909.15, The NEPA Process Handbook, for instructions regarding processing of Notices of Negative Determination.

1952.43—*Environmental Statements.* The following steps are taken after an ES is determined to be required:

1. Conduct public involvement as appropriate.
2. File the DES with CEQ. Distribute it to agencies and the public.
3. Schedule public participation sessions if necessary. See Inform and Involve Handbook, draft, August 1977.
4. Review, analyze, evaluate, and respond to substantive comments on the DES.
5. Prepare a FES.
6. Prepare a Decision Notice (FSM 1953) and attach to FES.
7. File FES with CEQ. Distribute it to agencies and the public.
8. Implement the plan, program or project. Monitor the effects of implementation.

1952.43a—*Filing.* Regional Foresters, Station Directors, and Area Directors are authorized to file environmental statements directly with the CEQ for actions within their authority.

In cases where the Forest Supervisor or Research Project Leader is the responsible official and has demonstrated competency in the preparation of environmental statements, Regional Foresters may delegate the authority to file environmental statements directly with the CEQ.

Environmental statements involving legislation, regulations, multi-agency action at the National level, and USDA policy will be filed with the CEQ by the Chief's Office.

If the Chief is the responsible official, copies of both draft and final statements will be submitted to the Chief for approval before printing.

If the FES deals with plans, programs, or projects which involve roadless areas, the Chief will file the FES with the CEQ. Public distribution will be delayed until the Chief has notified the responsible official that the FES has been filed. Final environmental statements on plans, programs, or projects affecting areas involved in pending legislation for wilderness designation or study are to be approved by the Chief before filing with the CEQ or public distribution. See FSH 1909.15, The NEPA Process Handbook, for instructions regarding filing procedures.

1952.43b—*Distribution.* When the DES is filed with the CEQ, the responsible official must distribute copies of the statement, free of charge, for review and comment. They are sent to other Federal, State, and local agencies, organizations and individuals. State and local agencies should be contacted as described in OMB Circular A-95, (FSM 1565).

Copies of the statement will be available for public review at the Washington Office, the office of the responsible official, and selected Forest, Region, Area, Station offices, and other appropriate locations.

After sending copies to the CEQ, the FES should be forwarded to agencies, organizations, and individuals who submitted substantive comments on the DES.

Responsible officials should maintain lists of individuals, groups, organizations, and governmental agencies which may be interested in reviewing Forest Service environmental statements. Regions are encouraged to develop specific distribution lists. The Washington office maintains a list of individuals, groups, organizations, and governmental agencies which may be interested in reviewing environmental statements on issues of national importance. However, there is no automatic mailing list for environmental statements. They are distributed on a case-by-case basis.

All statements will be submitted to the Environmental Protection Agency (EPA) for review and comment. For regional actions, statements may be sent to the appropriate EPA Regional Administrator.

The A-95 clearinghouses may also be used, by mutual agreement, for securing reviews of the DES. However, the responsible official may wish to deal directly with appropriate State or local agencies in their reviewing of environmental statements. (Clearinghouses may be unwilling or unable to handle this phase of the process.) In some cases, the Governor may have designated a specific agency, other than the clearinghouse, for coordinating reviews of environmental statements. Clearinghouses should always receive copies of the environmental statement.

Section 200 of FSH 1909.15, the NEPA process handbook, shows addresses of Federal Agencies and the number of ES copies requested by that agency. Environmental statements will be distributed as shown in that section.

1952.5—*Supplements and Amendments.* Amendments or supplements to environmental analysis reports or environmental statements are prepared, filed, distributed, and reviewed the same as the original documents.

1952.51—*Draft Environmental Statements.* Additional information may emerge after the DES has been distributed. New information should be included in errata sheets, supplements, or amendments to the DES.

Errata sheets should be used when minor corrections are necessary that will not materially revise the subsequent decision. Typical items include terminology and typographical corrections.

Supplements to the DES are used when new or more accurate information may significantly change the public response and/or decision. Supplements add substantive information to the original document.

Amendments to the DES are used when the new material significantly changes the total context of the document and decision. Amendments replace, rather than supplement portions of the original documents.

1952.52—*Environmental Analysis Reports and Final Environmental Statements.* Additional information may emerge after an EAR or FES has been prepared.

If the new information involves minor changes, such as tyographical corrections, that would not affect public response or the decision, the corrections should be noted in a letter which is placed in the EAR or FES file folder.

1952.52a—*Environmental Analysis Reports.* If the new information may change the public response or the decision, a supplement or amendment to the EAR will be prepared.

1952.52b—*Final Environmental Statements.* If the new information may change the public response or the decision, a draft supplement or amendment to the FES is prepared and distributed for public review and comment. After review is completed, a final supplement or amendment to the FES is prepared.

1952.6—*Review.*

1952.61—*Forest Service Environmental Statements.*

1952.61a—*Draft Environmental Statements.* When the DES has been filed with the CEQ, the responsible official should distribute copies of the statement to other Federal, State, and local agencies with expertise and regulating authority in environmental matters. A time period of not less than 60 days from the date of transmittal to the CEQ will be allowed for comment. Longer periods may be specified (see Exhibit 2). Extensions of time may be granted by the responsible official.

EXHIBIT 1

If the action is a major Federal action significantly affecting the quality of the human environment regarding:	Then these conditions must be met:	
	Prior to a decision (adoption)	Prior to implementation
Plans, programs, or projects other than land management plans or decisions affecting the wilderness character of inventoried roadless areas.	1. A 90-day period has elapsed since the DES was transmitted to CEQ and distributed to the public.	1. A decision has been made to approve the plan, program, or project. 2. 30 days have elapsed since the CEQ has received the FES and decision notice. 3. 30 days have elapsed since the FES and decision notice were distributed to the public.
Land management or other plans, programs, or projects affecting the wilderness character of inventoried roadless areas	1. Same as above 2. If the action is a land management plan, the alternative plans under consideration have been available to the public for a period of at least 90 days.	1. Same as above. 2. Same as above. 3. Same as above. 4. 90 days while Congress is in session have elapsed since the FES was transmitted to the CEQ. 5. An extension of time has not been requested by the appropriate congressional committee chairman. 6. The Washington office has notified the responsible official that conditions 4 and 5 above have been met.

EXHIBIT 1

If the action is a major Federal action significantly affecting the quality of the human environment regarding:	Then these conditions must be met: Prior to a decision (adoption)	Prior to implementation
Land management or other plans, programs, or projects affecting areas involved in pending legislation for wilderness designation or study	1. Same as above 2. Approval has been received from the chief.	1. Same as above. 2. Same as above. 3. Same as above. 4. Same as above. 5. Same as above.
Land management plans	1. Same as above 2. The alternative land management plans under consideration have been available to the public for a period of at least 90 days.	1. Same as above. 2. Same as above. 3. Same as above.

1952.61b—*Final environmental statements.* A period of not less than 30 days from the date when the CEQ receives the FES will be allowed before decisions are implemented.

In rare cases, emergencies may require that a decision be implemented in a shorter time period. Before taking such action, the Washington Office will consult the CEQ.

Comments received after the FES is filed should be answered on an individual basis.

1952.62—*Review of other agency environmental statements.* When requested to do so, the Forest Service will review and comment on environmental statements initiated by other agencies, as appropriate because of special expertise. When another agency proposal involves National Forest System lands, the Forest Service will review the environmental statement.

Unless otherwise assigned by the Chief, review and comment on legislative or other major policies, regulations, or national program proposals, will be made by the Washington Office.

The Regional Forester or area director in whose Region or area the proposal is located will review all other environmental statements and prepare comments. Where appropriate, statements should be sent to Station Directors or other Forest Service officials for comment.

Comments should be specific, substantive, and factual. It may be appropriate for reviewers to indicate the need for additional information about the proposed action. When unfavorable views or a recommendation against a proposed action is indicated, these will first be discussed with the agency proposing the action before a formal reply is prepared. If an unfavorable recommendation is still indicated, the Chief or Regional Forester will respond at the appropriate level.

In some instances, review time may be insufficient because of the absence of key personnel or other unforeseen circumstances. In such cases, additional time for Forest Service review should be requested. Programs and Legislation, Washington Office, should be advised of the requested extension of time.

A review of other agency final environmental statements should determine whether they are responsive to Forest Service comments on the draft environmental statement. If they are not, the agency should be notified.

Procedures for other agencies to use to obtain Forest Service comments are shown in Exhibit 2.

EXHIBIT 2

Other Federal agencies should observe the following procedures in obtaining Forest Service comments on environmental statements:

Subject area—send to—Number of copies

1. Legislative; regulations and national policies; and broad national programs; Office of the Secretary, USDA Attn.: Office of Environmental Quality Activities, Washington, D.C. 20250; 12.
2. Major Federal actions of a national or interregional scope; Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C. 20013; 12.
3. Major Federal actions of a regional, State, or local scope; regional foresters and area directors. The addresses are shown below; 4.

FOREST SERVICE

Montana, Northeast Washington, North Idaho, North Dakota, and Northwest South Dakota: Regional Forester, Northern Region, USDA Forest, Federal Building, Missoula, Mont.

Colorado, Kansas, Nebraska, South Dakota, and Wyoming: Regional Forester, Rocky Mountain Region, USDA Forest Service, 1117 West 8th Avenue, P.O. Box 25127, Lakewood, Colo. 80225.

Arizona and New Mexico: Regional Forester, Southwestern Region, USDA Forest Service, Federal Building, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

Utah, South Idaho, West Wyoming, and Nevada: Regional Forester, Intermountain Region, USDA Forest Service, Federal Building, 324 25th Street, Ogden, Utah 84401.

California, Hawaii, Guam, Saipan, and Pacific Trust Territories: Regional Forester, California Region, 630 Sansome Street, San Francisco, Calif. 94111.

Alaska: Regional Forester, USDA Forest Service, Federal Office Building, P.O. Box 1628, Juneau, Alaska 99801.

Washington and Oregon: Regional Forester, Pacific Northwest Region, USDA Forest, 319 Southwest Pine Street, P.O. Box 3623, Portland, Oreg.

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. If national forest lands involved: Regional Forester, Southern Region, USDA Forest Service, 1720 Peachtree Road NW., Atlanta, Ga. 30309. If national forest lands uninvolved: Director, Southeastern Area, S&PF, USDA Forest Service, 1720 Peachtree Road NW., Atlanta, Ga. 30309.

Connecticut, Delaware, Illinois, Iowa, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin. If national forest lands involved: Regional Forester, Eastern Region, USDA Forest Service, 633 West Wisconsin Avenue, Milwaukee, Wis. 53203. If national forest lands uninvolved: Director, Northeastern Area, S&PF, USDA Forest Service, 6816 Market Street, Upper Darby, Pa. 19082.

1953—*Decision.*

1953.1—*Environmental analysis reports.* The line officer approves, modifies, or disapproves the action or proposal in a decision notice which is attached to the EAR. See exhibit 3 for a sample decision notice.

The responsible official should notify the public of the decision, as appropriate.

1953.2—*Environmental statements.* The line officer approves, modifies, or disapproves the action or proposal in a decision notice which is attached to the FES.

The decision will not be made until the conditions in exhibit 1 are met.

The decision notice, or equivalent should be sent to:

1. Individuals, organizations, or agencies affected by the decision.
2. Others who have requested, in writing, such notice.

In addition, the public may be notified by publishing the decision notice in a newspaper of general circulation in the area affected by the decision (36 CFR 211.19d).

See exhibit 3 for a sample decision notice. The signed and dated decision notice should clearly identify the action or proposal and the decision of the responsible official.

EXHIBIT 3

SAMPLE DECISION NOTICE

Decision Notice, Beaver Creek Land Management Plan

SAN FRANCISCO, CALIF.,
July 7, 1977.

It is my decision to adopt alternative B which is described as the preferred alternative in the attached final environmental statement.

Implementation of this plan will not take place prior to 30 days from the date of this decision.

JAMES SMITH,
Regional Forester.

1954—*Implementation, monitoring, and control.*

1954.1—*Implementation.* See exhibit 1, FSM 1953.2 for conditions that must be met prior to implementation of the plan, program, or project.

1954.2—*Monitoring.* Actions will be monitored to insure that (1) environmental safeguards are executed according to plan; (2) necessary adjustments are made to achieve desired environmental effects; and (3) information is collected to improve Forest Service planning and decisionmaking.

In some cases, it may be desirable to describe the planned monitoring program in the EAR or FES. The monitoring costs are a part of project costs. When necessary, the permittee or licensee may be required to pay these costs.

1954.3—*Control.* Management reviewers (FSM 1440) will discuss the results and environmental effects of plans, projects, and programs as part of activity, program, and

management reviews at all organizational levels. Such a review should compare the actual on-the-ground results with anticipated effects described in the EAR or FES.

[FR Doc. 77-33990 Filed 11-28-77; 8:45 am]

[3410-11]

Forest Service

MT. HOOD PLANNING UNIT—PROPOSED INTERAGENCY PLAN, MT. HOOD NATIONAL FOREST

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Mt. Hood planning unit—proposed interagency plan, Mt. Hood National Forest, USDA-FS-R6-FES(Adm)76-8.

The environmental statement concerns a proposed interagency plan and alternatives for managing the Mt. Hood planning unit in the Mt. Hood National Forest. It deals with land management and resource allocation on 158,000 acres of public and private lands within the Mt. Hood area in Oregon. The area is subject to a wide range of conflicting demands because it has high natural resource values, includes seven small communities and lies in close proximity to a large metropolitan area.

The proposed plan is oriented toward balancing land uses according to environmental capacity and substantiated needs. Other alternatives considered are continuation of existing plans on Federal lands, designation of all roadless areas for wilderness study and no change on National Forest lands.

The final environmental statement was transmitted to CEQ on November 21, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue, SW., Washington, D.C. 20013.

Mt. Hood National Forest, Supervisor's Office, 2440 Southeast 195th Avenue, Portland, Oreg. 97233.

USDI, Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, Oreg. 97208.

Hood River County Planning Department, County Courthouse, Parkdale, Oreg. 97041.

USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine, Portland, Oreg. 97204.

Hood River Ranger Station, Parkdale, Oreg. 97047.

Zigzag Ranger Station, Zigzag, Oreg. 97073.

Clackamas County Planning Department, 940 Warner Milne Road, Oregon City, Oreg. 97045.

Colleges and libraries in the vicinity of the Mt. Hood National Forest have reference copies available.

A limited number of single copies are available upon request to Forest Supervisor, Mt. Hood National Forest, 2440 Southeast 195th, Portland, Oreg. 97233.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,
Associate Deputy Chief,
Forest Service.

NOVEMBER 21, 1977.

[FR Doc. 77-34143 Filed 11-28-77; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 27933]

AIRLIFT INTERNATIONAL, INC., ET AL. ENFORCEMENT PROCEEDING

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Alexander N. Argerakis to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., November 22, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc. 77-34206 Filed 11-28-77; 8:45 am]

[6320-01]

[Docket No. 30332; Order No. 77-11-86; Agreement CAB 26984]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Issued under delegated authority November 18, 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 45th Meeting of the TC1 Specific Commodity Rates Board.

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. The revisions, insofar as they would affect air transportation under the Act, are outlined in the attachment hereto, and reflect reductions from otherwise applicable general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that Agreement CAB 26984 is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That: Agreement CAB 26984 is 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.

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.

By James L. Deegan, Chief Passenger and Cargo Rates Division Bureau of Fares and Rates.

CRAIG LINDSAY,
Acting Secretary.

AGREEMENT CAB 26984

IATA commodity item No.[1]	Specific commodity rate		Market
	Cents per kg.[2]	Min. wgt. kgs.	
2201	[3]61	300	Bogota to New York.
	[3]61	300	Medellin to New York.
	[3]61	300	Pereira to New York.

[1] See applicable tariffs for commodity descriptions.
[2] Rates are subject to applicable currency conversion factors as shown in tariffs.
[3] Expires Sept. 30, 1979.

[FR Doc. 77-34208 Filed 11-28-77; 8:45 am]

[6320-01]

[Docket No. 29123; Order No. 77-11-83; Agreement CAB 26986]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Issued under delegated authority November 18, 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 2 (Europe/Africa/Middle East), of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above CAB agreement number.

The agreement would amend the fare structure within the Middle East and Europe by establishing first-class and normal economy-class fares between Riyadh and Istanbul via Jeddah and Amman by permitting application of the direct route fare level on this specified indirect routing. The agreement has indirect application in air transportation as defined by the Act insofar as it affects fares which are combinable with fares to/from United States points, and will be approved.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.14, it is not found that Resolution 200 (Mail 183) 014a, incorporated in Agreement CAB 26986 as indicated, is adverse to the public interest or in violation of the Act.

Accordingly, *it is ordered*, That:

Agreement CAB 26986 be and hereby is approved.

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 upon expiration of the above period, unless within such period a petition for review thereof 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.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Fares and Rates.

CRAIG LINDSAY,
Acting Secretary.

[FR Doc. 77-34207 Filed 11-28-77; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Notice of Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Wednesday, December 14, 1977, at 9:30 a.m. in Room 4830, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to further its mission to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries.

Agenda items are as follows:

MORNING SESSION, ROOM 4830, 9:30 A.M.-12:30 P.M.

(1) Summary of recent developments in East-West trade by Alan A. Reich, Deputy Assistant Secretary for East-West Trade.

(2) China Today: A Symposium—(a) China After Mao: A Political Overview; (b) Economic Development: The Four Modernizations Program; (c) Energy: Production and Export Potential; (d) World Trade: Problems and Prospects; (e) Selling the China Market: Strategies for Success.

AFTERNOON SESSION, ROOM 4830, 1:45 P.M.-4 P.M.

(3) Discussion of joint U.S.-U.S.S.R. marketing seminars.

(4) Discussion of Advisory Committee recommendations concerning the Atlantic Council report on "East-West Trade: Managing Encounter and Accommodation."

(5) Discussion of BEWT program for increasing public understanding of East-West trade issues.

(6) Review and comment on BEWT trade promotion strategy.

(7) Report on recent CSCE Belgrade review of basket II provisions of the Helsinki Final Act.

(8) Review and comment on recent meetings of joint U.S.-East European economic commissions.

(9) Review of items submitted by Committee members.

(10) Review of items submitted by the public.

The meeting will be open to public observation and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before December 7, 1977. Other public statements regarding committee affairs may be submitted at any time before or after the meeting.

Approximately 50 seats will be available for the public (including 5 seats reserved for media representatives) on a first-come first-served basis.

Copies of minutes will be available 30 days after the meeting upon written request addressed to the Domestic and International Business Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Inquiries should be addressed to William F. Kolarik, Jr., Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Room 4814B, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4691.

ALAN A. REICH,
Deputy Assistant Secretary For East-West Trade.

[FR Doc. 77-34140 Filed 11-28-77; 8:45, am]

[3510-25]

COLLEGES OF THE SENECA, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 77-00252. Applicant: The Colleges of the Seneca, Inc., 337 Pulteney Street, Geneva, N.Y. 14456. Article: Magnetometer System, Fluxgate Spinner, and Long core horizontal spinner. Manufacturer: Digico, Ltd., United Kingdom. Intended use of arti-

cle: The article is intended to be used for secular variation studies in order to resolve the sedimentary records of individual seismic, climatic, or sedimentologic events. The article will also be used for educational purposes in the course, Introduction to Geophysics, which involves study of the objectives, methods, and discoveries relating to the solid earth.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability to spin and measure long sediment cores (up to 6 meters) with high resolution (better than 50×10^{-9} electromagnetic units for 2° revolution). The National Bureau of Standards advises in its memorandum dated October 5, 1977, that (1) the capability of the article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 77-34144 Filed 11-28-77; 8:45 am]

[3510-25]

UNIVERSITY OF HAWAII

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 77-00258. Applicant: Hawaii Institute of Geophysics, University of Hawaii, 2525 Correa Road, Honolulu, Hawaii 96822. Article: Portable 3-component fluxgate magnetometer with digital electronic output and accessories. Manufacturer: E.D.A. Electronics Ltd., Canada. Intended use of article: The article is intended to be used for measurments of the magnetic time-variations continuously for more than 18 months on an oceanic island. The continuous output of the instrument will be digitally recorded on magnetic tape for subsequent Fourier analysis of the various components and their inter-relationships. This will provide a basis for estimating the deep electrical conductivity structure beneath the island which will have a relationship to temperature and deep dynamic process in the earth. The ultimate goal is to investigate these relationships and their connection to possible causes of mid-oceanic volcanism.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides triaxial vector measurements, long term stability (±1%) and relatively long maintenance free operation (about 30 days). The National Bureau of Standards advises in its memorandum dated October 7, 1977, that (1) the capabilities of the article are pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 77-34145 Filed 11-28-77; 8:45 am]

[3510-25]

UNIVERSITY OF MIAMI

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 77-00275. Applicant: University of Miami, School of Medicine, P.O. Box 520875, Miami, Fla. 33152. Article: Flow Cytophotometer, Model ICP 21. Manufacturer: PHYWE A. G., West Germany. Intended use of article: The article is intended to be used for the rapid measurement of cytophysical and bio-medical parameters of single cells by flow cytophotometric techniques. A variety of cells will be analyzed by this methodology including mouse primary and metastatic tumor, mouse ascites tumor, and human neoplastic cells. Normal lymphoid cell populations will also be studied. The objectives of these studies are to measure statistically significant changes in tumor cell populations at various times after innoculation and analyze quantitative antigenic differences in cell membranes of various lymphoid cell populations.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides accurate individual cell volume detection and broad band ultraviolet excitation down to 200 nanometers. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated October 3, 1977, that (1) the capabilities of the article described above are pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus that provides the pertinent features of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 77-34146 Filed 11-28-77; 8:45 am]

[3510-24]

Economic Development Administration

ETTLEBRICK SHOE CO.

Notice of Petition for a Determination of Eligibility to Apply for Trade Adjustment Assistance

A petition by Ettelbrick Shoe Co., Greenup, Ill. 62428, a producer of footwear for children, was accepted for filing on November 16, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business December 9, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 77-34147 Filed 11-28-77; 8:45 am]

[3510-24]

NATIONAL FOOTWEAR CORP.

Notice of Petition for a Determination of Eligibility to Apply for Trade Adjustment Assistance

A petition by National Footwear Corp., 1 Railroad Avenue, Epping, N.H. 03042, a producer of footwear for children and misses, was accepted for filing on November 18, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business December 9, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 77-34148 Filed 11-28-77; 8:45 am]

[3510-24]

TIARA FOOTWEAR, INC.

Notice of Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Tiara Footwear, Inc., Main Street, Dover, N.H. 03820, a producer of footwear for women, was accepted for filing on November 18, 1977, pursuant to sections 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business December 9, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 77-34149 Filed 11-28-77; 8:45 am]

[3510-03]

Maritime Administration

DETERMINATION OF OPERATING-DIFFERENTIAL SUBSIDY FOR WAGES OF OFFICERS AND CREWS AND SUBSISTENCE OF OFFICERS AND CREWS OF PASSENGER VESSELS

Amendments to the Manual of Procedures

In FR Doc. 77-31603 appearing in the FEDERAL REGISTER on November 1, 1977 (42 FR 57152), notice was given that the Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board have under consideration a complete revision of Part I (Wages of Officers and Crews), and Part II (Subsistence of Officers and Crews of Passenger Vessels), of the Manual of General Procedures for Determining Operating-Differential Subsidy for liner vessels.

Interested parties were invited to file written comments with the Secretary, Maritime Subsidy Board, Maritime Administration, Washington, D.C. 20230, not later than December 2, 1977.

Upon request made and good cause shown by the American Institute of Merchant Shipping, the date for submission of comments is hereby extended to close of business on January 23, 1978.

Dated: November 23, 1977.

By order of the Maritime Subsidy Board and Assistance Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 77-34227 Filed 11-28-77; 8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

WEATHER MODIFICATION ADVISORY BOARD

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., App. 1 (Supp. V, 1975), notice is hereby given of the seventh meeting of the Weather Modification Advisory Board.

The Weather Modification Advisory Board will meet from 6 p.m. to 10 p.m. on December 17, 1977, from 9 a.m. to 10:30 p.m. on December 18, 1977, from 9 a.m. to 6 p.m. on December 19, 1977, and from 9 a.m. to 12:30 p.m. on December 20, 1977 at the Sheraton International Center, Reston, Va.

The Board was established in January 1977 (42 FR 4512, 1-25-77), to advise the Secretary of Commerce on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Pub. L. 94-490), enacted on October 13, 1976. The Board consists of 17 members, with a balanced representation selected from scientific, academic, commercial, consumer, legal, and environmental groups, who are appointed by the Secretary of Commerce.

The purpose of this meeting is to discuss and prepare the Board's interim report, to plan future meetings, and to assign tasks for preparation of the final report. Other discussions will cover some aspects of foreign weather modification activities, some environmental issues, and two research pro-

jects—hurricane modification (Project STORMFURY) and the Florida Area Cumulus Experiment (FACE).

The agenda for the meeting is:

DECEMBER 17 (SATURDAY)

6 p.m.—10 p.m.—Discussion of drafts of sections prepared for interim report and assignment of writing tasks.

DECEMBER 18 (SUNDAY)

9 a.m.—12:30 p.m.—Preparation of revised portions of interim report.
12:30 p.m.—1:30 p.m.—Recess for lunch.
1:30 p.m.—6:30 p.m.—Discussion of Israeli weather modification programs, the proposed international Precipitation Enhancement Project (PEP), and the Florida Area Cumulus Experiment (FACE).
6:30 p.m.—8:30 p.m.—Recess for dinner.
8:30 p.m.—10:30 p.m.—Discussion of Project STORMFURY (hurricane modification).

DECEMBER 19 (MONDAY)

9 a.m.—12:30 p.m.—Continuation of preparation of interim report.
12:30 p.m.—1:30 p.m.—Recess for lunch.
1:30 p.m.—5:30 p.m.—Discussion of environmental aspects of weather modification.
6 p.m.—Recess for dinner.

DECEMBER 20 (TUESDAY)

9 a.m.—12:30 p.m.—Discussion on consolidation of sections of interim report.
12:30 p.m.—Adjournment and lunch.

The meeting will be open to the public and a period will be set aside at the discretion of the Chairman for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments should be submitted in writing before December 15. Other public statements regarding Board affairs may be submitted at any time before or after the meeting. Seating will be available for the public on a first-come first-served basis in Conference Room 4 at the Sheraton Reston International Conference Center.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to Dr. Ronald L. Lavoie, Director, Office of Science and Academic Affairs, National Oceanic and Atmospheric Administration, Rockville, Md. 20852, phone 301-443-8721.

Dated: November 22, 1977.

R. L. CARNAHAN,
Deputy Assistant Administrator for Administration.

[FR Doc. 77-33767 Filed 11-28-77; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 77-4]

AEROSOL MISDIRECTION

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: In this document the Commission denies a petition to develop a mandatory standard for aerosol containers to eliminate aerosol misdirection, because the Commission believes that presently available information does not support a determination that misdirection of aerosol spray due to inadequate means to direct the spray presents an unreasonable risk of injury.

FOR FURTHER INFORMATION CONTACT:

Mark Gulak, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, phone 301-492-6754.

SUPPLEMENTARY INFORMATION: 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, amendment, or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

On January 26, 1977, the Commission received a petition (CP 77-4), from the National Consumers League (NCL), to commence proceedings under section 7 of the Consumer Product Safety Act (15 U.S.C. 2058) to develop mandatory safety standards for aerosol containers to eliminate or reduce the risk of injury from the misdirection of aerosol spray due to inadequate means to direct the spray. The basis of this petition was a Commission decision dated July 18, 1975 and published in the FEDERAL REGISTER on July 24, 1975, to deny a petition submitted by the Center for Science in the Public Interest (CPSI) which requested that the Commission take various regulatory actions relating to aerosol containers (40 FR 31026). That notice stated that the Commission intended to seek prompt voluntary action to correct the problems associated with aerosol containers because of inadequate means to assure proper direction of the spray, and to take formal regulatory action in the event that such a voluntary commitment could not be obtained.

In October 1975, the American Society for Testing and Materials (ASTM) agreed to form a committee to develop voluntary standards for aerosol containers. Several consumer groups participated in the efforts of ASTM Subcommittee D10.17, including the petitioner, National Consumers League (NCL). To date, ASTM has not produced a voluntary standard which effectively addresses the problem of misdirection of aerosol containers. In its January 26, 1977 submission NCL contended that industry's refusal to make a serious effort in the development of voluntary standards had caused undue delay in dealing with the problem of misdirection of aerosol containers. On this basis, NCL petitioned the Commission to proceed to develop mandatory safety standards to insure adequate means to properly direct the spray of aerosol containers.

The Commission has reconsidered the data supplied by CSPI in the original petition on aerosol containers and the information generated for use by the ASTM committee as well as the information supplied by the current petitioner. Based on these data, the Commission concludes that it has insufficient information to support a determination that the misdirection of aerosol spray due to inadequate means to direct the spray presents an unreasonable risk of injury. The Commission has, therefore, decided to deny the petition.

Consideration which led to this decision include an analysis of the available injury data. The Commission staff estimates that relatively few injuries, (approximately 1,300-1,555 in calendar year 1976) associated with misdirected spray are treated annually in U.S. hospital emergency rooms. While it is not possible to assess the severity of aerosol related injuries it is estimated that only 2 percent of the injured persons initially admitted to emergency rooms require hospitalization. (This rate of hospitalization is half the rate at which all product-related injuries reported to the National Electronic Injury Surveillance System require hospitalization.)

The Commission concludes that the available injury data do not indicate at this time that the risk of injury from misdirection of aerosol spray is unreasonable. The Commission, in addition, believes that proceeding to develop a mandatory standard for aerosol containers is not currently warranted in light of the priorities set by the Commission to best utilize its available resources.

Copies of the petition and the staff's briefing materials to the Commission on the petition may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third floor, Washington, D.C. 20207.

Dated: November 22, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission

[FR Doc. 77-34150 Filed 11-28-77; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RI77-43; RI77-61]

T. E. L. OIL & GAS, ET AL.

Order Granting Petition for Special Relief

NOVEMBER 17, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date of DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On April 15, 1977, T. E. L. Oil & Gas (T. E. L.) filed petitions for special relief pursuant to section 2.76 of the Commission's general policy and interpretations (18 CFR 2.76) for the sale of natural gas produced from 49.9562 percent of the working interest in the Hamby gas unit and all of the working interest in the Guymon Townsite gas unit located in the City of Guymon, Texas County, Okla., to Cities Service Gas Co. (Cities).

On August 2, 1977, T. E. L. amended its petitions for special relief to request a reduction in the total rate from 78.188 cents per Mcf to 75.65 cents per Mcf. T. E. L. holds a small producer certificate issued in Docket No. CS72-123 with gas sales attributable to all of the working interest produced from the Guymon Townsite gas unit under a contract dated December 5, 1946. Gas sales from 49.0926 percent of the working interest in the Hamby gas unit are made on a nonsignatory basis under a contract between Skelly Oil Co. (Skelly) and Cities dated August 28, 1945 on file with the Commission as Skelly's rate schedule No. 50. Skelly has executed a release in favor of T. E. L. so that T. E. L. can make the subject gas sales directly to Cities.

Notice of the petitions for special relief in Docket Nos. RI77-43 and RI77-61 were issued on June 6, 1977 and of the amended petitions were issued September 7, 1977. Such notices were published in the FEDERAL REGISTER respectively on June 13, 1977, at 42 FR 30245 and September 14, 1977 at 42 FR 46083. Cities filed a timely petition for intervention in support of T. E. L.'s June 6, 1977 filings.

Petitioner estimates the proposed investment necessary to purchase and install a gathering line, salt water disposal tanks, cathodic protection, pump jacks, sucker rods and tubing for the Hamby gas well unit and the Guymon Townsite gas unit aggregate $124,412. Petitioners calculate the remaining net book value to be $267,132. Based on its analysis of data submitted, staff accepts petitioners remaining net book value and proposed investment. Petitioners estimated average annual production expense approximates $43,767 and includes a five percent annual inflation factor together with water hauling and compression expenses in projecting total estimated production expenses of $962,866. Based on its analysis on the data submitted by T. E. L., staff estimates there are in the aggregate 3,666,794 Mcf of gas reserves remaining to be recovered over 22 years, and concludes that 2,580,693 Mcf are attributable to petitioners 42.9562 percent interest in the Hamby gas well unit together with its 87.50 percent interest in the Guymon Townsite unit.

Staff has used the above costs along with 2,580,693 Mcf of reserves in a traditional cost study to derive the indicated total rate of 75.65 cents per Mcf, which allows petitioners to recover their costs, including a 15 percent rate of return, over a 22 year project life. Staff therefore concludes that the request rate appears to be cost supported.

Upon consideration of the data submitted by petitioners and staff's analysis thereof, we conclude that the proposed rate is cost justified.

The Commission finds: (1) The petitions for special relief filed by T. E. L. meet the criteria set forth in section 2.76 of the Commission's general policy and interpretations.

(2) The public convenience warrants the consolidation of Docket Nos. RI77-43 and RI77-61.

(3) Good cause exists to permit the intervention of Cities Gas Service Co.

The Commission orders: (A) The petitions for special relief of T. E. L. Oil & Gas Corp. are hereby granted.

(B) T. E. L. Oil & Gas Corp. is authorized to collect a total rate of 75.65 cents per Mcf at 14.65 psia for the sale of natural gas produced from 49.9562 of the working interest in the Hamby gas unit and all of the working interest in the Guymon Townsite gas unit located in the City of Guymon, Texas County, Okla., effective upon the date of completion of the proposed gathering line, salt water disposal pits, cathodic protection, pump jacks, sucker rods, and tubing or the issuance of a Commission order herein, whichever is later, subject to T. E. L. Oil & Gas Corp. filing a statement signed by Cities Service Gas Co. that the proposed work has been completed to its satisfaction within 30 days of the effective date.

(C) This authorization is further subject to the following conditions: (1) T. E. L. Oil & Gas Corp. must file, within 30 days of issuance of this order, an appropriate rate change filing in accordance with § 154.94 of the Commission's regulations under the Natural Gas Act (18 CFR 154.94); (2) within 30 days of issuance of this order T. E. L. Oil & Gas Corp. must file an amendment contractually authorizing the rate granted herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

[Docket Nos. RI77-43 & RI77-61]

T.E.L. Oil & Gas Corp. Hamby Gas Well Unit and Guymon Townsite Gas Unit, City of Guymon sections 30 & 31-3N-15 ECM, Texas County, Okla.

[Unit cost of gas]

Line No.	Item (a)	Amount (b)
1	Net working interest volumes.	
2	Gas—Mcf @ 14.65 psia[1]	2,580,693
3	Liquids—bbls	—0—
4	Cost of Production.	
5	Return on rate base @ 15 percent[2]	471,088
6	DD&A[3]	379,103
7	Production expense[4]	962,866
8	Regulatory expense[5]	2,581
9	Total cost of production	1,815,638
10	Unit cost of gas (¢/Mcf).	
11	Cost of production[6]	70.35
12	Production tax[7]	5.30
13	Total unit cost	75.65

[1] This is composed of 1,386,836 Mcf minus 9,240 Mcf in compressor fuel times 42.9562 percent net working interest in the Hamby Unit plus 2,279,958 Mcf minus 6,895 Mcf compressor fuel times 87.50

percent net working interest in the Guymon Townsite Unit.

[1]Line 30 of schedule 3 times 0.15 times 22 year project life.

[2]From line 9 of schedule 2.

[3]Based on staff's estimate of applicant's total production costs of $311,109 for the Hamby Unit and $651,757 for the Guymon Townsite Unit.

[4]Line 2 times 0.1¢/Mcf per Opinion No. 749.

[5]Line 9 divided by line 2.

[6]7 percent Oklahoma production tax.

[Investment]

Line No.	Item (a)	Amount (b)
1	Investment.	
2	Remaining net book value	$267,132
3	Replace 2 mi. pipeline	57,212
4	Salt water disposal pit	7,200
5	Cathodic protection	24,000
6	Pump jack, sucker rods and tubing	36,000
7	Total investment	391,544
8	Less salvage value[1]	12,441
9	Depreciable investment	379,103

[1]10 percent of the total of lines 3, 4, 5, and 6.

[Docket Nos. RI77-43 and RI77-61]

T.E.L. Gas & Oil Corp.—Hamby Gas Well Unit and Guymon Townsite Gas Unit, City of Guymon, sections 30 and 31-3N-15 ECM, Texas County, Okla.

	(a)	Annual N.W.I. production (b)	Beginning of year investment (c)	Depreciation[1] (d)	End of year investment (e)	Average investment[2] (f)
1	Average	Investment				
2	1	158,315	391,544	24,526	367,018	[3]252,980
3	2	217,895	367,018	33,772	333,246	350,132
4	3	196,385	333,246	30,454	302,792	318,019
5	4	177,031	302,792	27,465	275,327	289,060
6	5	159,632	275,327	24,777	250,550	262,938
7	6	150,249	250,550	23,174	227,376	238,963
8	7	202,792	227,376	29,699	197,677	212,526
9	8	182,608	197,677	26,756	170,921	184,299
10	9	164,563	170,921	24,117	146,804	158,862
11	10	148,265	146,804	21,740	125,064	135,934
12	11	133,562	125,064	19,592	105,472	115,268
13	12	120,302	105,472	17,651	87,821	96,646
14	13	98,330	87,821	13,883	[4]70,578	79,200
15	14	75,369	70,578	9,846	60,732	65,655
16	15	67,833	60,732	8,861	51,871	56,302
17	16	60,990	51,871	7,967	43,904	47,888
18	17	54,941	43,904	7,177	36,727	40,316
19	18	49,387	36,727	6,452	30,275	33,501
20	19	44,528	30,275	5,817	24,458	27,366
21	20	39,966	24,458	5,221	19,237	21,848
22	21	36,097	19,237	4,715	14,522	16,880
23	22	32,330	14,522	4,223	10,299	12,410
24	23	9,323	10,299	1,218	9,081	[5]3,227
25	Total	2,580,693		379,103		3,020,220
26	Average Annual Investment[6]					137,283
27	Annual rate base:					
28	Average annual investment					137,283
29	Average annual working capital allowance[7]					5,471
30	Total annual rate base					142,754

[1]The depreciation here is not uniform for each year due to the difference in operating life of each well. This is a composite schedule.

[2]Column (c) plus column (e) divided by 2.

[3]Adjusted by weight factor of 0.667 year.

[4]Salvage value of $3,360 for the Hamby Gas Unit is written off in this year.

[5]Adjusted by weight factor of 0.333 year.

[6]Column (f) of line 25 divided by 22 year project life.

[7]0.125 times line 7 of Schedule 1 divided by 22 year project life.

[FR Doc. 77-34060 Filed 11-28-77; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP78-54]

NORTHERN NATURAL GAS CO.

Application

NOVEMBER 17, 1977.

Take notice that on October 31, 1977, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP78-54 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to adjust and realign Iowa Electric Light & Power Company's, Iowa-Illinois Gas & Electric Company's, Iowa Power & Light Company's and Iowa Public Service Company's, four of Applicant's utility customers, present contract demand volumes to meet most effectively their requirements for the 1977-78 heating season, all as more fully set

forth in the application on file with the Commission and open to public inspection.

The application states that Applicant has received requests from the aforementioned four utility customers for realignment of their present contract demand volumes. Applicant proposes to revise the presently authorized contract demand service to the four utility customers for the 1977–78 heating season by realigning such service by community to allow its utility customers to achieve maximum utilization of presently authorized service in meeting their requirements. The following is a tabulation showing the proposed realignments by community, as requested by the four utility companies:

IOWA ELECTRIC LIGHT AND POWER COMPANY

[In thousands of cubic feet]

Group-Rate Zone	Town	Current Contract Demand	Realigned Contract Demand	Net Charge In Contract Demand
C-2	Atlantic	6,092	5,372	(—)720
	Jefferson	3,889	3,749	(—)140
	Sheldahl	592	582	(—)10
C-3	Alexander	165	125	(—)40
	Belmond	1,911	1,771	(—)140
	Britt	1,697	1,557	(—)140
	Chelsea	229	219	(—)10
	Eldora	2,178	2,158	(—)20
	Garner	1,930	1,900	(—)30
	Iowa Falls	4,573	4,443	(—)130
	Kanawha	470	460	(—)10
	Meservey	238	228	(—)10
	State Center	1,096	1,016	(—)80
	Whitten	124	104	(—)20
D-3	Central City	396	426	30
	Clarence	369	419	50
	Coggon	267	327	60
	Delmar	196	226	30
	Dysart	475	565	90
	Hazelton	296	376	80
	Mechanicsville	451	541	90
	Mount Vernon	1,358	1,528	170
	Oelwein	3,403	3,813	410
	Olin	276	366	90
	Quasqueton	180	190	10
	Stanwood	291	331	40
	Traer	646	706	60
	Vinton	2,435	2,695	260
	Winthrop	417	447	30
	Total	36,640	36,640	0

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Proposed Realignment of Peak-Day Contract Availability

	CD Mcf	PS-1 Mcf	SS-1 Mcf	Total Mcf
Zone 2				
Duncombe	305	20		325
Otho	300	30		330
Callender	335	25		360
Coalville	370	30		400
Fort Dodge	24,700	1,363	30	26,093
Bush Hog-Stan Hoist	340			340
Friendship Haven	205			205
Celotex Corp	270			270
U.S. Gypsum Corp	225			225
Total, zone 2	27,050	1,468	30	28,548
Zone 3				
Badger	335	25		360
Manson	1,600	150		1,750
Total, zone 3	1,935	175		2,110
Total, district	28,985	1,643	30	30,658

PROPOSED REALLOCATION OF RATE SCHEDULE CD-1 VOLUMES

Iowa Power & Light Co.

[In thousands of cubic feet]

	Current CD-1 allocation	Proposed CD-1 allocation	Increase (decrease)
Subgroup C, Rate Zone 2			
Adel, Iowa	1,730	1,945	215
Ankeny	5,530	7,110	1,580
Alleman			
Elkhart			
Avoca	1,375	1,375	
Carson	620	620	
Dallas Center	970	970	
Des Moines	135,695	131,775	(3,920)
John Deere Des Moines Works	4,500	4,500	
Massey-Ferguson, Inc. (implement plant)	413	413	
Meredith Corp. Printing Group (printing plant)	1,546	1,546	
Windsor Heights			
Urbandale			
Clive			
Pleasant Hill			
Carlisle			
Norwalk			
Hartford			
West Des Moines			
Portions of Warren and Polk Counties			
Dexter	470	470	
Dunlap	600	600	
Earlham	500	625	125
Griswold	1,060	1,060	
Hancock	170	170	
Kimballton	170	170	
Linden	180	180	
Logan	880	880	
Macedonia	205	205	
Marne	95	95	
Minburn	285	285	
Minden	290	290	
Mineola	115	115	
Missouri Valley	1,700	1,930	230
Neola	510	510	
Oakland	1,262	1,262	
American Beef Packers, Inc	868	868	
Panora	730	730	
Persia	185	185	
Polk City	345	545	200
Portsmouth	105	105	
Redfield	720	720	
Shelby	400	490	90
Silver City	195	195	
Stuart	930	930	
Treynor	300	490	190
Underwood	340	424	85
Walnut	690	690	
Subtotal	166,679	165,474	(1,205)
Subgroup C, Rate Zone 3			
Altoona	1,800	2,110	310
Bondurant	500	660	160
Colfax	1,630	1,630	
Mingo	175	225	50
Mitchellville	730	870	140
Monroe	680	970	290
P.A.G. Seeds Co	20	20	
Prairie City	640	895	255
Subtotal	6,175	7,380	1,205
Utility total	172,854	172,854	

It is indicated that the realignment for Iowa Public Service Co. includes a reduction in contract demand for Waterloo Industries, Inc., from 600 Mcf per day to 500 Mcf per day and realignment of the 100 Mcf of contract demand to the contract demand of the city of Waterloo, Iowa.

Applicant states that the proposed realignment of contract demand volumes by community would not increase or decrease the presently authorized total contract demand of the respective utility companies.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-33950 Filed 11-28-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 822-1; Region VIII]

MONTANA POWER CO., COLSTRIP UNITS 3 AND 4

Final Determination

In the matter of the applicability of Title I, Part C of the Clean Air Act (as amended), to the Montana Power Co., Colstrip Units 3 and 4.

In a letter signed by Mr. David G. Hawkins, Assistant Administrator for Air and Waste Management, on September 30, 1977, The Montana Power Co. (the Company), was advised that the position expressed in a previous letter signed by Mr. Douglas M. Costle, Administrator, U.S. Environmental Protection Agency (EPA), might require revision as the result of enactment of the 1977 Amendments to the Clean Air Act (the Act). The Hawkins letter stated a preliminary determination that the definition of "commenced" construction contained in new section 169(2) of the Act would require the Company to comply with the provisions of Title I, Part C, Prevention of Significant Deterioration of Air Quality (PSD), before proceeding with construction of Colstrip Units 3 and 4. The Company was afforded an opportunity to submit written comments on this issue to the Regional Administrator, Region VIII, prior to a final determination being made. Such comments were filed by the Company, and comments were also filed by the Northern Plains Resource Council, intervenors in a previous suit between EPA and the Company with respect to Colstrip Units 3 and 4. *Montana Power Co., et. al.* v. *EPA*, 429 F. Supp. 683 (D. Mont. 1977).

Such comments have been carefully considered by the Regional Administrator who has been delegated the authority to issue PSD permits and is therefore the competent official to make this final determination on the applicability of the amended Act to facts concerning Colstrip Units 3 and 4 which might require such a permit. After concurrence with EPA Headquarters, the Regional Administrator has decided that the preliminary determination was correct. This determination may now be considered final agency action which is locally applicable under section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Ninth Circuit by any appropriate party. In accordance with section 307(b)(1), petitions for review must be filed on or before January 30, 1978.

The sole question addressed in this final determination is whether the 1977 Amendments require that Colstrip Units 3 and 4 undergo PSD permitting procedures. Prior to enactment of the 1977 Amendments EPA had promulgated administrative regulations concerning the same subject. The Company had maintained that those administrative regulations did not apply to Colstrip Units 3 and 4, and the U.S. District Court for Montana concurred with the Company position in its decision in *Montana Power Co., et al.*, v. *EPA*. That case is now on appeal to the Ninth Circuit. The subsequent enactment of statutory requirements by the 1977 Amendments, however, requires new findings by the Regional Administrator which may or may not pertain to the previous litigation. To the extent that this final determination is relevant to the existing appeal, the correlation between it and the finding under the administrative regulations may be considered by the Court of Appeals.

New section 169(2) of the Act, as amended, states:[1]

> (2)(A) The term "commenced" as applied to construction of a major emitting facility means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has (i) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time.
>
> (B) The term "necessary preconstruction approvals or permits means those permits or approvals, required by the permitting authority as a precondition to undertaking any activity under clauses (i) or (ii) of subparagraph (A) of this paragraph.

Therefore a major emitting facility such as Colstrip Unit 3 or 4 has not commenced construction for PSD purposes until it has (1) obtained all necessary preconstruction approvals or permits *and* (2) *either* (a) begun continuous on-site construction *or* (b) entered specified obligations. Two prerequisites must be met with the second prerequisite being capable of being met in either of two ways.

Analysis of the first prerequisite for commencement of construction indicates that all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations must be obtained. The necessary approvals or permits are further defined as those required as a precondition to undertaking any activity under either subdivision of the second prerequisite. The Company contends that no permit was required prior to entering into contracts described in Sections 169(2)(A)(ii). That is correct. But the definition of necessary preconstruction permits is not limited to preconditions to some activity under clause (ii) alone.

Instead, Section 169(2)(B) refers to "any activity under clauses (i) or (ii)." The Company contends that since this language is in the disjunctive, it will suffice to have obtained the permits necessary under either clause (i) or clause (ii). The language, however, defines the necessary preconstruction permits as those preconditions required prior to undertaking any activity under the "clauses" plural. Not one singular clause or the other singular clause, but the clauses plural modify and describe the term "any activity". Therefore one type of necessary permit is that which is required as a precondition to undertaking any activity under clause (i). Another type of necessary permit is that required to undertake an activity under clause (ii). Since the first prerequisite for commencement of construction requires that all permits have been obtained, it clearly refers to both the necessary permits for clause (i) activity and the necessary permits for clause (ii) activity.

No permits being required for clause (ii) activity in the case of Colstrip Units 3 and 4, the question then arises whether the Company has obtained the necessary air quality permits for clause (i) on-site construction activity. The Company has admitted that on June 22, 1976, it obtained a permit required for on-site construction from the Montana Board of Natural Resources and Conservation under the Montana Major Facility Siting Act. Company memorandum p. 13.[2] In obtaining that permit, the Company agreed to comply fully with the Conditions set forth in the Findings of Fact and Conclusions of Law made by the Department of Health and Environmental Sciences and the Conditions set forth in the Decision of the Board of Natural Resources and Conservation. One such condition agreed to by the Company was the following:

> 3. The certification with conditions herein set forth does not constitute a waiver of any of the requirements of the Clean Air Act, the Water Pollution Control Act, or the implementation plan, including the necessity of obtaining a permit in accordance with the rules and regulations implemented under Section 69-3911, R.C.M. 1947.

The Board of Health and Environmental Sciences reaffirmed the need for a State preconstruction review permit under Section 69-3911, R.C.M. 1947, and the State Implementation Plan on June 27, 1977. The Company applied for such a permit on August 17, 1977. The permit has not been granted as of this date.

The permit under Section 69-3911 R.C.M. 1947, and the State Implementation Plan is a permit required by both Federal and State air quality laws and regulations as a precondition

See footnotes at end of document.

to undertaking an activity described under clause (i) of Section 169(2)(A) of the Act. Having not met one of the two prerequisites jointly necessary to have commenced construction, the Company has not commenced construction of Colstrip Units 3 and 4 for PSD purposes as of this date.

The legislative history of the 1977 Amendments supports the basis of this finding that construction of a major facility will not commence for purposes of the Act until all necessary permits for both clause (i) and (ii) activity have been obtained. The language which was to become Section 169(2)(A) originated in the Senate bill. The Senate Report elucidated the purpose of the definition contained in Section 169(2)(A.)[3]

> Major emitting facilities which commence construction after June 1, 1975, are required to receive a permit under this provision.
>
> The amendments provide a definition of when a major emitting facility can be said to have "commenced construction." This definition was adopted to allow a determination as to whether any particular facility is subject to the review and other requirements of the provisions for the prevention of significant deterioration. The date at which construction is said to have commenced is the time at which the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State or local laws and has committed itself to a program of construction. The test of commitment is whether physical on-site construction has begun or whether the owner or operator has entered into contractual obligations which cannot be canceled or modified without substantial loss. The committee does not expect that this test will necessarily be met by penalty clauses in contracts. Rather, the committee intends a factual determination as to whether a source has so committed itself, financially and otherwise, to the use of a particular site for a particular facility that relocation is not an option and delay or substantial modification would be severely disruptive. (Senate Rep. No. 95-127, 95th Cong., 1st session at 32.)

In order to have commenced construction, it would have been necessary for a source to have obtained all necessary permits to allow construction and, in addition, to have made an actual commitment to construction. The permit requirement was further explained as follows:

> The committee intends that in order to qualify for this interpretation the source must have received all appropriate preconstruction approval or clearance from the State for the construction of the facility at a particular site, in accordance with State law. Ibid.

The language which was later revised to become section 169(2)(B) was introduced in a floor amendment made by Senator Jackson on June 10, 1977, with specific reference to Colstrip Units 3 and 4. The intent of Senator Jackson's amendment is difficult to ascertain as his comments when the amendment was introduced indicate that his understanding of the situation at Colstrip was incomplete. He stated that the District Court in *Montana Power Co., et al.* v. *EPA*, "held that they came within the act" (123 Cong. Rec., June 10, 1977, S9455), although the District Court actually held that Units 3 and 4 were exempt. He stated that the Company had "completely complied with the law" (Ibid.), although as he spoke the Company was in violation of both Federal and State law by constructing without the permit required by section 69-3911, R.C.M. 1947, and the State implementation plan.[4]

If Senator Jackson was unaware that the Company had failed to obtain a necessary air quality permit of which it had known the need for over 2 years, his comments become consistent. Had the Company complied with the law by receiving the necessary State permit then, as Senator Jackson said, the amendment would "* * * not prejudice the litigation that is pending. All the issues in the litigation are preserved." Ibid. Because the underlying facts were not as he stated, however, his amendment should not be viewed as having the effect which the Company attributes. This is especially true in light of comments made by Senator Muskie after discussion with, and without contradiction by Senator Jackson. Senator Muskie said:

> If an owner of a proposed facility can demonstrate that he had all the air quality-related clearance necessary to construct the facility, and was not making the commitments involved entirely at this own risk, before he could be assured that construction could legally take, then such physical construction or contractual obligations might be deemed to have commenced construction within the meaning of this definition.
>
> It should be added that for a contractual obligation to qualify a source as having commenced construction, the definition requires that the obligation be in connection with a continuous program of construction. Only continuous and significant site preparation work, such as major clearing or excavation or placement of unique facilities at the site should be considered a program of construction. All necessary air pollution emissions, and air quality approvals or permits required for such activities would be required by this clarifying amendment. Ibid.

The Conference Committee changed the Jackson amendment language somewhat to delete any consideration of good-faith reliance by an owner or operator as a factor to be considered.[5] The Conference Committee Report explains the intent of the language which became law as follows:

> The definition of "baseline" and "commenced construction" of the Senate bill were accepted, with a slight modification of the "commenced construction" definition to clarify the intent that a source must have approval before construction may begin, and that any source that has begun construction without approval may not argue that construction activity alone (within the meaning of clauses (i) and (ii) is adequate to meet the requirement of paragraph (2A). H.R. Rep. No. 95-564, 95th Cong., 1st session at 153.

The Report refers to construction activity as activity "(within the meaning of *clauses* (i) *and* (ii))." [Emphasis added.] Not activity within the meaning of clause (i) alone. Not activity within the meaning of clause (ii) alone. Both activities under clause (i) and clause (ii) are referenced. The purpose of the Committee was to make clear that any source which has begun one or both of these activities without approval may not argue that such activity alone meets the requirement of section 169(2)(A). This interpretation is consistent with the removal by the Committee of the language referring to "reliance" by a source. In accomplishing that purpose, the Committee reiterated the intent of the definition of "commence" construction to require permits for both clause (i) and clause (ii) activity. In the language of the Act this intent is embodied in the requirement for "all" permits for any activity under clause (i) or clause (ii). Therefore, an individual permit may relate to an individual activity under "clauses (i) or (ii)" as stated in section 169(2)(B) but "all" necessary permits referred to in section 169(2)(A) includes all activity within the meaning of both clauses (i) and (ii).

The result of an examination of the language of the Act and the legislative history of the Act is consistent. The Company was required to obtain a permit under section 69-3911 R.M.C. 1947, and under the State implementation plan. Such permit was a necessary preconstruction permit under section 169(2)(B) of the Act. Not having yet obtained this permit, the Company cannot have obtained all of the necessary section 169(2)(B) permits and therefore has not yet commenced construction under section 169(2)(A) of the Act.

The result of the Company not having yet commenced construction is stated in section 168 of the Act.

> PERIOD BEFORE PLAN APPROVAL
>
> Sec. 168. (a) Until such time as an applicable implementation plan is in effect for any area, which plan meets the requirements of this part to prevent significant deterioration of air quality with respect to any air pollutant, applicable regulations under this Act prior to enactment of this part shall remain in effect to prevent significant deterioration of air quality in any such area for any such pollutant except as otherwise provided in subsection (b).
>
> (b) If any regulation in effect prior to enactment of this part to prevent significant deterioration of air quality would be inconsistent with the requirements of section 162(a), section 163(b) or section 164(a), then such regulations shall be deemed amended so as to conform with such requirements. In

See footnotes at end of document.

the case of a facility on which construction was commenced in accordance with this definition after June 1, 1975, and prior to the enactment of the Clean Air Act Amendments of 1977, the review and permitting of such facility shall be in accordance with the regulations for the prevention of significant deterioration in effect prior to the enactment of the Clean Air Act amendments of 1977.[4]

The Company argues that the second sentence of new section 168(b) means that if a source were grandfathered under the original PSD regulation, it is still grandfathered under the new Act Amendments even if construction commenced (under the new statutory definition) between June 1, 1975, and August 7, 1977. This is a totally incorrect reading of section 168(b). Section 168(b) plainly provides that if a source commences construction in accordance with the new statutory definition (between June 1975—August 1977), then the "*review* and *permitting*" of the facility shall be in accordance with the original regulations.[5]

The Company argues on page 15 of its comments that EPA's reading of § 168(b) would be "manifestly unfair," because the Act would then, in the Company's words:

> retroactively require preconstruction review and permits for sources that had been grandfathered under the regulations, *had received notice from EPA to that effect*, and then had begun (or even completed) on-site construction or entered into substantial contractual obligations in reliance on their exempt status * * *

The Company's argument is clearly refuted, however, by its own quotation of the Senate Report language on page 16 of its comments. (See the middle paragraph of the quoted material.) Where a "source in question" had received written assurances of grandfather status from EPA and then commenced construction in reliance on those written assurances, the source could still be grandfathered. This is the situation in the Boardman and Bridger cases to which the Company refers. The Company, of course, has never received written assurances form EPA that Units 3 and 4 were grandfathered and thus stands in an entirely different light. In addition the present status of the Boardman and Bridger plants with respect to necessary permits and actual construction activity further differentiates them from the Colstrip case.

In summary, the Company has made the decision to place millions of dollars in peril by proceeding with contracts for Colstrip Units 3 and 4 without obtaining the permits necessary to build these plants. As the Company has emphasized, there was no governmental review necessary before it could put this large amount of money at risk. The Company made its own decisions and cannot now escape the consequence of those decisions. The Amendments tie the effective date of the Act requirements to the occurrence of the granting of necessary permits. Having proceeded at its own risk, the Company must now face the consequence of PSD permit requirements as clearly mandated by Congress under the 1977 Amendments.

It is so determined on this 18th day of November 1977

ALAN MERSON,
Regional Administrator,
Region VIII.

FOOTNOTES

[1] Technical changes to the Amendments were approved by Congress for clarification and to correct discrepancies. These changes have added a new subsection (C) as follows:

(C) The term 'construction' when used in connection with any source or facility, includes the modification (as defined in section 111(a)) of any source or facility. 123 Cong. Rec., Nov. 1, 1977, S. 18371.

[2] The Montana Major Facility Siting Act, Section 70-817, provides as follows:

70-817. Additional requirements by other governmental agencies not permitted after issuance of certificate—exceptions. Notwithstanding any other law, no state or regional agency, or municipality or other local government, may require any approval, consent, permit, certificate, or other condition for the construction, operation, or maintenance of a facility authorized by a certificate issued pursuant to this chapter; except that the state air and water quality agency or agencies shall retain authority which they have or may be granted to determine compliance of the proposed facility with state and federal standards and implementation plans for air and water quality and to enforce those standards. This chapter does not prevent the application of state laws for the protection of employees engaged in construction, operation or maintenance of a facility.

The permit granted on June 22, 1976, therefore, does not dispose of the need for the State air quality agency to review a proposed facility in accordance with State law or the federally approved State Implementation Plan. The Company was informed of the need for a State air quality preconstruction permit at least as early as a letter by Mr. Ben Wake of the Department of Health and Environmental Sciences dated May 2, 1975.

[3] This language and other language in the Senate report clearly indicate Congressional agreement with the principles of the "Strelow Memoranda" and indicate disagreement with the Boardman decision. Since the statute applies to sources commencing construction in accordance with the new statutory definition after June 1, 1975 (the same "cut-off date" as contained in the original PSD regulation), Congress has in effect reversed Judge Battin's rejection of the Strelow Memoranda.

With respect to what type of loss is "substantial" under § 169(2)(A)(ii), the Administrator has proposed a 10% test" (of total project cost) as a uniform national rule. See 42 FR, at 57481, November 3, 1977. It thus appears that even if the "necessary permits" test is disregarded entirely, PSD preconstruction review for Units 3 and 4 would still be required. We have found that the maximum amount of the loss by June 1, 1975, was only 2.8%; the Company contends (on page 13 of its comments), that 6.5% was committed by August 7, 1977.

[4] Congressman Rogers in floor comments concerning the bill which ultimately was approved by the Conference Committee was candid in expressing the difficulty in understanding the complex situation involving Colstrip Units 3 and 4.

"Mr. Speaker, in the State of Montana there is a proposed powerplant project known as Colstrip 3 and 4. I have heard allegations that this project might receive special, favored treatment under the definition of "necessary preconstruction permits" in this conference bill. I can say that the "necessary preconstruction permit" definition in this bill will apply equally to all major emitting facilities through the country. The conference committee did not intend to hand out any special exceptions or to impose any special burdens. There was some concern expressed that this might interfere with litigation now pending with respect to the Colstrip project. It is not intended to have that effect. All the issues in that litigation are preserved. I assume there is a complicated factual situation involved to which I have not been exposed. This definition "necessary preconstruction permits" does not automatically decide whether the project is commenced or not. The effect is neutral.

Personally, not being familiar with the particular facts, I do not know if the "necessary preconstruction permits" language in this bill will help or hurt Colstrip. But no special or favored treatment was intended by the conference committee. 123 Cong. Rec., Aug. 4, 1977, H 8665.

The Congress thus intended to make clear that sources in a certain class would be deemed to have "commenced" construction. It can now be seen that Units 3 and 4 do not fit within that class.

[5] The Jackson amendment proposed to add the definition as follows:

The term "necessary preconstruction approvals or permits" means those permits or approvals, *if any*, required as a precondition to undertaking any activity *relied upon by an owner or operator to satisfy the requirements in* clauses (i) or (ii) of sub-paragraph (C) of this paragraph.

The underlined portions were deleted by the Conference Committee to clarify that the need for necessary permits was absolute and not tempered by any consideration of the reliance by an owner or operator on other activities the deletion of the phrase "if any" does not bear on the reliance question, but is merely the removal of superfluous language since all PSD sources must undergo a preconstruction permit process required by the State Implementation Plan prior to undertaking clause (i) activity. Alternatively, assuming that the Jackson amendment could be read as the Company argues, the deletion of the phrase "if any" by the Conferees would be a significant change. For the phrase "if any" in the Jackson amendment could arguably be construed to indicate that only permits needed for contracting (usually *none*) would suffice to meet the permits test. The deletion of that phrase by the conferees would indicate a rejection of such a construction.

[6] Technical changes mentioned in Footnote 1 have made the following clarification:

* * * in the second sentence of section 168(b) strike out "in accordance with this

See footnotes at end of document.

definition" and insert in lieu thereof "(in accordance with the definition of 'commenced' in section 169(2))" 123 Cong. Rec., Nov. 1, 1977, S. 18371.

The old administrative regulations have been amended, effective August 7, 1977, to incorporate the statutory definition of section 169(2). 42 FR, Nov. 3, 1977, 57459. The FEDERAL REGISTER notice contains a typographical error in the definition of "necessary preconstruction approvals or permits." The term "subdivision" is incorrect and should be changed to "subdivisions."

[FR Doc. 77-34244 Filed 11-28-77; 8:45 am]

[6560.01]

[FRL 821-6]

NATIONAL AIR POLLUTION CONTROL TECHNIQUES ADVISORY COMMITTEE

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held at 9 a.m. on December 14 and 15, 1977, at the Charter House Motor Hotel, 6461 Edsall Road, Alexandria, Va. 22312. The commercial telephone number, 703-354-4400.

The meeting is scheduled for the Committee to review the new source performance standards (NSPS), for particulate, SO_2 and No_x from utility boilers and to make recommendations for the proposed revision to the existing standards.

The proposed agenda for the meeting is as follows:

December 14 (Wednesday)

9 a.m.-9:15 a.m.—Miscellaneous Business.
9:15 a.m.-12 noon—Review of SO_2 NSPS for Power Plants.
12 noon-1 p.m.—Lunch.
1 p.m.-5 p.m.—Review of SO_2 NSPS for Power Plants.
5 p.m.-7 p.m.—Dinner.
7 p.m.-10 p.m.—Review of SO_2 NSPS for Power Plants.

December 15 (Thursday)

9 a.m.-12 noon—Review of Particulate NSPS for Power Plants.
12 noon-1 p.m.—Lunch.
1 p.m.-5 p.m.—Review of NO_x NSPS for Power Plants.

All meetings are open to the public. Anyone wishing to make a presentation should contact Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, By December 9, 1977. The area code and telephone number are 919-541-5271.

Dated: November 22, 1977.

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

[FR Doc. 77-34222 Filed 11-28-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-408]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio; Applications Accepted for Filing

NOVEMBER 21, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Acting Secretary.

SATELLITE COMMUNICATIONS SERVICES

ID—90-DSE-P/L-78 Upper Valley Telecable Co., Inc., Idaho Falls, Idaho. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 43°29'48" N., Long. 112°01'44" W., Rec. Freq. 3700-4200 MHz, Emission 36000F9., with a 5 meter antenna.

AR—91-DSE-P/L-78 Twin Lakes Television Co., Harrison, Ark. authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 36°13'12" N., Long. 93°07'53"W., Rec. Freq. 3700-4200MHZ., Emission 36000F9., with a 5 meter antenna.

AK—92-DSE-P/L-78 RCA Global Communications, Inc., Eagle Creek, Alaska. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 68°42'23" N., Long. 162°32'35" W., Rec. Freq. 3700-4200MHz., Tran. Freq. 5952-6425MHz., Emission 45F9., with a 4.5 meter antenna.

NY—93-DSE-P/L-78 Mohawk Hudson Council on Educational Television, Inc., Schenectady, N.Y. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 42°46'37" N., Long. 73°58'41" W., Rec. Freq. 3700-4200MHz., Emission 36000F9., with a 10 meter antenna.

CA—94-DSE-P/L-78 Satellite Networks, Inc., Palo Alto, Calif. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 37°18'54" N., Long. 122°09'04" W., Rec. Freq. 3700-MHz., Emission 36000F9., with a 4.5 meter antenna.

SC—95-DSE-P/L-78 Home CATV Co., Inc., Williston, S.C. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 33°19'30" N., Long. 81°23'30" W., Rec. Freq. 3700—4200MHz., Emission 36000F9., with a 5 meter antenna.

KS—96-DSE-M/L-78 McPherson CATV, Inc. (KE71), McPherson, Kans. Modification of License to authorize the reception of Madison Square Garden Events as its Earth Station.

OK—97-DSE-M/L-78 Yukon Cablevision (KE70), Yukon, Okla. Modification of License to authorize the reception of programing of WYAH—TV, Portsmouth, Va., of Home Box Office, Inc., and of Micro-Cable Communications Corp., at its Earth Station.

GA—98-DSE-P-78 Western Union Telegraph Co., Atlanta, Ga. Authority to construct a transmit-receive only earth station in the area of Atlanta, Ga., to provide video Relay Service via the Westar Satellite System. Lat. 33°49'05", Long. 84°29'38" W., Rec. Freq. 3700-4200 MHz., Tran. Freq. 5925-6425MHz., Emission 36000F9./36000F5., with a 10 meter antenna.

OK—99-DSE-ML-78 El Reno Cablevision (KE69), El Reno, Okla. Modification of License to authorize the reception of programming of WYAH-TV, Portsmouth, Va., of Home Box Office, Inc., and of Micro-Cable Communications Corp., at its Earth Stations.

NJ—100-DSE-ML-78 Crosswicks Industries (WD43), Point Pleasant Beach, N.J. Modification of License to permit reception of Additional Programing at this location.

MT—101-DSE-ML-78 Laurel Cable TV, Inc. (KE58), Laurel, Mont. Modification of License to receive Additional Programing at this Location.

OK—102-DSE-TC-78 Cablevision of Chickasha Co. (KE89), Chickasha, Okla. for consent to Transfer of Control from Jack G. Brewer; James R. Brewer; W. O. Moon; and Michael McKee, Transferors, to Kansas State Network, Inc., Transferee, Domestic Communications Satellite Receive-Only Earth Station at this location.

[FR Doc. 77-34175 Filed 11-28-77; 8:45 am]

[6712-01]

[Docket No. 21467]

PHILIP KARLIN

Amateur Radio Station and Novice Class Operator Licneses

Adopted: November 11, 1977.

Release: November 15, 1977.

1. The Chief, Safety and Special Radio Services Bureau, has under consideration the above-entitled application for an Amateur radio station license and for a Novice Class Operator license. The application was filed by Phillip Karlin, 27 Cliff Avenue, Sayville, N.Y. 11782, and was dated March 26, 1977.

2. Karlin was granted a Citizens Band (CB), radio station license on March 5, 1974, for a five-year term. On July 20, 1977, the Commission released an Order (SS-124-77), revoking Karlin's Citizens Band radio station license. In that Order it was concluded that Karlin transmitted on the frequency 27.335 MHz without a licnese having been issued to him by the Commission authorizing such operation and that such operation was unlicensed operation in willful violation of

Section 301 of the Communications Act of 1934, as amended. The Order further concluded that Karlin did not identify his radio transmissions by a call sign assigned to him by the Commission, but instead he used the designator "HF 2010" which is a designator of the type assigned by an organization known as HF International. The Order also concluded that organizations such as HF International actively promote unlicensed and otherwise illegal operation and that Karlin by adhering to HF International Rules, had further demonstrated his unfitness to be a Commission licensee.

3. In view of the Findings and of the Conclusions of the Order of Revocation (SS-124-77), released on July 20, 1977, it cannot be determined that a grant of Karlin's above-captioned application would serve the public interest, convenience, and necessity. Therefore, the Commission must designate the application for hearing. The Findings and Conclusions of the Order of Revocation shall be res judicata as to the applicant and shall not be relitigated in this proceeding.

Accordingly, *it is ordered*, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Section 0.331 and 1.973 of the Commission's Rules, that the captioned application is designated for hearing at a time and a place to be specified by subsequent Order, upon the following issues:

(1) To determine the effect of the facts and conclusions contained in the Order of Revocation, released July 20, 1977 (SS-124-77), upon the applicant's qualifications to be a licensee of the Commission.

(2) To determine, in light of the evidence adduced under the foregoing issue, whether the applicant has the requisite qualifications to be a licensee of the Commission.

(3) To determine whether the public interest, convenience, and necessity would be served by a grant of the application for Amateur radio station and Novice Class Operator Licenses.

It is further ordered, That to avail himself of the opportunity to be heard, the applicant herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within twenty days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in the Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory, and Enforcement Division.

[FR Doc. 77-34174 Filed 11-28-77; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 19, 1977. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO. 10316.

FILING PARTY:

R. J. Finnan, Pricing, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130.

SUMMARY: Agreement No. 10316, a cooperative working arrangement entered into between Lykes Bros. Steamship Co., Inc., and American President Lines, Ltd., would permit the parties to interchange cargo containers, trailers, and related equipment between points in the United States and Continental Europe, United Kingdom, the Mediterranean and Far East in accordance with the terms of the agreement.

By Order of the Federal Maritime Commission.

Dated: November 23, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-34220 Filed 11-28-77; 8:45 am]

[6730-01]

[No. 77-57]

HILO COAST PROCESSING CO. V. MATSON NAVIGATION CO.

Filing of Complaint

NOVEMBER 22, 1977.

Notice is hereby given that a complaint filed by Hilo Coast Processing Co., against Matson Navigation Co., was served November 22, 1977. The complaint alleges that respondent assessed charges for ocean freight in excess of those permitted under the applicable tariff in violation of section 18 the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before May 22, 1978. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-34221 Filed 11-28-77; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

BRUEGGEMEYER & WOLFE, INC.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g)(3)) ("the Act"), by Brueggemeyer & Wolfe, Inc., and Brueggemeyer & Wolfe, Inc. Pension & Profit Sharing Plan for determination that they are not nor will be capable of controlling Alvarado State Bank, Alvarado, Tex.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than (12 days after date of publication). If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, November 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-34193 Filed 11-28-77; 8:45 am]

[6210-01]

NBT FINANCIAL CORP.

Formation of Bank Holding Company

NBT Financial Corp., Traverse City, Mich., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of National Bank and Trust Co. of Traverse City, Traverse City, Mich. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 20, 1977.

Board of Governors of the Federal Reserve System, November 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-34194 Filed 11-28-77; 8:45 am]

[6210-01]

UNITED BANKSHARES, INC.

Acquisition of Bank

United Bankshares, Inc., Green Bay, Wis., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of United Bank of Green Bay, Green Bay, Wis. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 8, 1977.

Board of Governors of the Federal Reserve System, November 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-34195 Filed 11-28-77; 8:45 am]

[6210-01]

VALLEY BANCORP., INC.

Formation of Bank Holding Company

Valley Bancorp., Inc., Syracuse, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Valley State Bank, Syracuse, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 19, 1977.

Board of Governors of the Federal Reserve System, November 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-34196 Filed 11-28-77; 8:45 am]

[6210-01]

WINGO, LTD.

Formation of Bank Holding Company

Wingo, Ltd., Brooklyn, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding by acquiring 80 percent or more of the voting shares of Poweshiek County Savings Bank, Brooklyn, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Wingo, Ltd., Brooklyn, Iowa, has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire direct or indirect ownership, control or power to vote, or shares, of Wold Insurance Agency, Brooklyn, Iowa. Notice of the application was published on October 20, 1977, in the Grinnell Herald-Register, a newspaper circulated in Grinnell, Poweshiek County, Iowa.

Applicant states that the proposed subsidiary would engage in the sale of credit life insurance and credit accident and health insurance related to the extension of credit by Poweshiek County Savings Bank. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 20, 1977.

Board of Governors of the Federal Reserve System, November 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-34197 Filed 11-28-77; 8:45 am]

[6820-24]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 43; Formal Case No. 76-0568]

COMMONWEALTH EDISON CO., ET AL. ILLINOIS COMMERCE COMMISSION

Proposed Intervention In Rate Increase Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Illinois Commerce Commission concerning an investigation into the feasibility of applying peakload pricing concepts to all or some classes of customer service by Commonwealth Edison Co., and the establishment of proper cost determinations thereunder. The Administrator of General Services represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone, 202-566-0750, on or before December 29, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 210(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: November 14, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 77-34152 Filed 11-28-77; 8:45 am]

[6820-25]

[Intervention Notice 44; Docket No. 21402]

FEDERAL COMMUNICATIONS COMMISSION WATS/MTS "LIKE SERVICES" INQUIRY

P roposed Intervention In Rulemaking Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Federal Communications Commission concerning a rulemaking proceeding as to whether Wide Area Telecommunications Service (WATS), and Message Telecommunication Service (MTS), are "like services" under the Communications Act. The Administrator of General Services represents the interests of the executive agencies of the United States Government, as users of interstate telecommunications services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone, 202-566-0750, on or before December 29, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 210(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: November 15, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 77-34153 Filed 11-28-77; 8:45 am]

[6820-25]

[Intervention Notice 42; Formal Case No. U-3559]

MISSISSIPPI PUBLIC SERVICE COMMISSION AND SOUTH CENTRAL BELL CO.

Proposed Intervention in Rate Increase Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Mississippi Public Service Commission concerning an application for an increase in its tariffed rates for intrastate telecommunications service. The Administrator of General Services represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone, 202-566-0750, on or before December 29, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 210(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: November 1, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 77-34151 Filed 11-28-77; 8:45 am]

[4110-89]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before December 29, 1977, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: November 23, 1977.

ROLF M. WULFSBERG,
Acting Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Project Characteristics Survey of Human Relations Components in ESAA.

2. Agency/Bureau/Office: U.S. Office of Education, Office of Planning, Budgeting, and Evaluation.

3. Agency form No.: OE 561-5.

4. Legislative authority for this activity: "The Commissioner shall report to the Congress on the effectiveness of applicable programs in achieving their legislated purposes

together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes." ((20 U.S.C. 1226c), Pub. L. 93-380, sec. 417(a)(1).)

5. Voluntary/obligatory nature of response: Voluntary.

6. How information to be collected will be used: The information collected in the survey will be used to provide program managers with an assessment of the nature and extent of human relations activities funded by the ESAA basic grants program. The information will also be used to categorize programs according to the types of services provided. Based on this categorization, a smaller sample of programs exemplifying different types of services will be selected for more in-depth analysis in a subsequent phase of the study. The results of the study will be summarized in the annual evaluation report to Congress (20 U.S.C. 1226c).

Data acquisition plan:

(a) Method of collection: Mail and telephone.

(b) Time of collection: Winter 1978.

(c) Frequency: Single time.

8. Respondents:

(a) Type: LEA ESAA project coordinator.

(b) Number: 400 (universe).

(c) Estimated average man-hours per respondent: 2 hours.

9. Information to be collected—Respondent type: LEA ESAA project coordinator. Demographic data on ESAA schools with human relations activities in grades 5 and 10, including verification of racial/ethnic composition of students and staff, history of ESAA funding, and poverty index. Characteristics of the ESAA basic grant program, including student targeting procedures, types and extent of human relations activities, types and extent of compensatory education services, and funding sources for human relations and compensatory education services.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: State-administered Vocational Education Program Improvement Contracts: Abstracts and Final Reports.

2. Agency/Bureau/Office: U.S. Office of Education, Bureau of Occupational and Adult Education.

3. Agency Form No.: OE Form 590.

4. Legislative authority for this activity: "Section 171(a)(2)(E)(i) * * * a national center for research in vocational education * * * which * * * shall * * * act as a clearinghouse for information on contracts made by States pursuant to section 131, section 132, and section 133 * * *." (Pub. L. 94-482, Title II, section 202; 20 U.S.C. 2401.)

5. Voluntary/obligatory nature of response: Required to obtain or maintain benefit.

6. How information to be collected will be used: The information is to be used to meet the legislative requirements cited above in item No. 4 to disseminate information on contracts made by States to support program improvement projects.

7. Data acquisition plan:

(a) Method of collection: Mail.

(b) Time of collection: Throughout the year (i.e., within 30 days of award of contract (the abstract) and within three months after the completion of a contract (the final report).

(c) Frequency: 16 (2 times per contract).

8. Respondents:

(a) Type: State education agences (SEA's).

(b) Number: 57.

(c) Estimated average man-hours per respondent: 4 (contractors prepared the abstracts and reports and the SEA forwards them; time is based on the SEA's role in handling and forwarding the material).

9. Information to be collected: The respondents will be required to provide (a) an abstract of each approved contract for program improvement, prepared in accordance with an outline, including source and amount of funds, objectives, procedures, expected contribution or potential impact on vocational education, and products to be delivered, and (b) the final report resulting from the contract.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Study of State Statutes, Regulations, and Administrative Practices Which Affect Contracting with Private and Proprietary Schools.

2. Agency/Bureau/Office: U.S. Office of Education, Bureau of Occupational and Adult Education.

3. Agency Form No.: OE Form 605.

4. Legislative authority for this activity: "Section 131(a). From 50 per centum of the sums available to each State for the purposes of this part the Commissioner is authorized to make grants to and contracts with institutions of higher education, public and private agencies and institutions, State boards, and, with the approval of the appropriate State board, to local educational agencies in that State for the purposes set forth in section 132, except that no grant may be made other than to a nonprofit agency or institution.

"Section 132. The funds available for grants and contracts under section 131(a) may be used for—

(1) research in vocational education; * * *" (Pub. L. 90-576, 20 U.S.C. 1282.)

5. Voluntary/obligatory nature of response: Voluntary.

6. How information to be collected will be used: The information is to be used to identify and document (1) statutes, (2) regulations, (3) administrative procedures, and (4) educational practices, at the State and local levels in each of the 56 States and outlying areas, which may prevent public schools from using private training resources. The data will be used for both descriptive and prescriptive purposes. It will permit the contractor to identify and describe the current situation and to recommend both legislative and administrative policy options to the Department of Health, Education, and Welfare, as well as to individual States.

7. Data acquisition plan:

(a) Method of collection: Mail, telephone, personal visit.

(b) Time of collection: January through March 1978.

(c) Frequency: One time.

8. Respondents:

(a) Type: State vocational education directors (SVED's).

(b) Number: 56 (universe).

(c) Estimated average man-hours per respondent: 1.

(a) Type: Local education agencies (LEA's).

(b) Number: 500 (sample).

(c) Estimated average man-hours per respondent: 1.

(a) Type: Other—State legal officials responsible for education.

(b) Number: 56 (universe).

(c) Estimated average man-hours per respondent: 1.

9. Information to be collected: Specific administrative procedures and practices which restrict or discourage mutual arrangements between public and private schools for providing education programs (SVED's and LEA's) and individual interpretations of Federal law which are claimed to be restrictive in the promotion of cooperative arrangements between public and private schools (State legal officials responsible for education).

[FR Doc. 77-34154 Filed 11-28-77; 8:45 am]

[4110-03]

Food and Drug Administration

ANTIPERSPIRANT PANEL

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Antiperspirant Panel meeting scheduled for December 19 and 20, 1977, has been rescheduled for January 26 and 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Lee Geismar, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-4960).

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration FDA) announced in a notice published in the FEDERAL REGISTER of November 15, 1977 (42 FR 59112), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Antiperspirant Panel scheduled for December 19 and 20, 1977, and has been changed to January 26 and 27, 1978. The open public hearing will begin at 9 a.m. on January 26 in conference room A, Parklawn Bldg., 15600 Fishers Lane, Rockville, Md. 20857.

Dated: November 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 77-34163 Filed 11-28-77; 8:45 am]

[4110-03]

Food and Drug Administration

CHRONOLOGICAL DOCUMENT LISTING

Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that its recently developed publication "Chronological Document Listing 1936-1976" (CDL) is available for sale from the Superintendent of Documents, U.S. Government Printing Office. The CDL is a listing in a single volume of all FDA issuances published in the FEDERAL REGISTER from March 1936 through December 31, 1976; it has been compiled by the agency as a useful research aid for tracing the historical development of FDA activities.

ADDRESS: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: Each entry in the CDL is tabulated under a subject area code, a subject descriptor and citations to the FEDERAL REGISTER publication date and page number. The listing also indicates whether a document was a rule, proposal, or notice in the FEDERAL REGISTER, and gives the section of the Code of Federal Regulations affected by the action.

The CDL may be purchased from the Superintendent of Documents for $6.25.

The Food and Drug Administration is making the CDL available to provide the public with a convenient reference tool that will augment the use of indexes and other available finding aids in researching FDA regulatory actions.

Dated: November 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 77-34041 Filed 11-28-77; 8:45 am]

[4110-03]

[Docket No. 77C-0364]

COLOR ADDITIVE

Denial of Petition for Listing of Ext. D&C Green No. 1 for Use in Externally Applied Drugs and Cosmetics

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying the petition to list "permanently" Ext. D&C Green No. 1 as a color additive for use in externally applied drugs and cosmetics. Published elsewhere in this issue of the FEDERAL REGISTER is a regulation terminating the provisional listing for Ext. D&C Green No. 1.

DATE: Objections by December 29, 1977.

ADDRESS: Objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200) stated that a petition (CAP 7C0055) for the "permanent" listing of Ext. D&C Green No. 1 as a color additive for use in externally applied drugs and cosmetics had been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc., 1133 15th Street NW., Washington, D.C. 20005. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

The petitioners were unable to resolve chemistry and analytical deficiencies of Ext. D&C Green No. 1 by the submission deadline of August 3, 1977. Insufficient data are available to permit drafting of adequate specifications for the certification of this color. These deficiencies are discussed in detail in the regulation published elsewhere in this issue of the FEDERAL REGISTER, that terminates the provisional listing of the color additive for use in externally applied drugs and cosmetics.

The Commissioner of Food and Drugs has considered the data submitted in support of the petition and other pertinent data related to the use of Ext. D&C Green No. 1 in externally applied drugs and cosmetics. Because the petitioners for Ext. D&C Green No. 1 have not successfully resolved all chemistry and analytical questions on Ext. D&C Green No. 1, and are not expected to do so in the near future, the Commissioner is denying the petition seeking listing of the color additive for use in externally applied drugs and cosmetics.

Any person who will be adversely affected by the foregoing order may at any time on or before December 29, 1977, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this notice. Received objections may be seen in the above-named office, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under provisions of the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: November 21, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 77-34037 Filed 11-28-77; 8:45, am]

[4110-03]

[Docket No. 77D-0367]

MEDICAL DEVICE CLASSIFICATION PANEL RECOMMENDATIONS

Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of panel recommendations on the classification of medical devices that were in commercial distribution before May 28, 1976. The agency will review these panel recommendations, discuss them with the panel if appropriate, and issue a proposed regulation classifying the devices. Interested persons may submit information, data, and views on these recommendations to the Executive Secretary of the appropriate panel, as indicated in the panel report.

ADDRESS: Panel recommendations are available at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Lillian Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, 8757 Georgia Ave.,

Silver Spring, Md. 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295), amending the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 et seq. (21 U.S.C. 301 et seq.)), hereinafter referred to as "the act," became law on May 28, 1976. Section 513 of the act (21 U.S.C. 360c) requires the Commissioner of Food and Drugs to classify medical devices into one of three regulatory control classes: class I, General Controls; class II, Performance Standards; and class III, Premarket Approval. The Commissioner is required to establish panels of experts and obtain their recommendations on the classification of medical devices. Proposed regulations on the procedures for classification of medical devices were published in the FEDERAL REGISTER of September 13, 1977 (42 FR 46028).

Anticipating eventual enactment of medical device legislation, FDA initiated in 1973 a pre-enactment classification process for medical devices. A list of approximately 8,000 devices had been compiled in 1971, and 13 classification panels, plus a Diagnostic Products Advisory Committee, had been established by 1975. The panels made tentative recommendations for classifying medical devices into different classes of regulatory control using criteria contained in legislative proposals before Congress during this period. The procedures that finally evolved during the pre-enactment classification process were published in a notice in the FEDERAL REGISTER of May 19, 1975 (40 FR 21848).

During the pre-enactment classification process, panels were organized according to the various fields of clinical medicine and fundamental sciences in which devices intended for human use are used. These panels are composed of experts of diverse backgrounds who are skilled in the use of, or experienced in the development, manufacture, or use of, medical devices.

Under section 513(b) of the act, the Commissioner may either establish new classification panels or use pre-enactment classification panels. The Commissioner decided to retain the 13 medical device classification panels that were established before enactment of the amendments and rechartered them by a notice published in the FEDERAL REGISTER of August 25, 1976 (41 FR 35877). Also, by publication in the FEDERAL REGISTER of August 25, 1976 (41 FR 35878), the six subcommittees of the pre-enactment Diagnostic Products Advisory Committee were chartered as separate classification panels. As a result, there are now 19 chartered classification panels. The titles of the classification panels and names of members have been filed with and are available for review at the office of the Hearing Clerk, Food and Drug Administration.

The Commissioner directed each panel to reconsider pre-enactment classification recommendations in light of the statutory classification criteria and other requirements of the amendments. The panels have done this and have made their recommendations in the form of the reports that are the subject of this notice.

In making recommendations to FDA, each panel considered the degree of regulatory control required to assure the safety and effectiveness of each device. In this process, the panels reviewed intended use, conditions of use, benefit-risk ratio, and reliability. Scientific evidence available to panels was considered valid when qualified experts could fairly and responsibly rely upon it in determining the safety and effectiveness of a device. The panels answered a classification questionnaire and completed supplemental data sheets for each device as described in the proposed regulation on classification procedures.

In applying the definitions and criteria provided in section 513(a) of the act for the three classes of regulatory control, the panels have made their recommendations regarding the classification of devices applicable to generic types of devices. These classification recommendations are contained in reports submitted to the Commissioner for his review. The recommendations include a summary of supporting reasoning and data (including references); risks to health (if any); recommendations on exemptions from sections 510, 519, and 520(f) of the Act; priorities for the application of performance standards and premarket approval; and, in some instances, restrictions on the use of the device.

Each panel recommendation must be reviewed by FDA. The agency intends to discuss panel recommendations with each panel, if appropriate, and issue a proposed regulation classifying the device. The final determinations on the classification of devices are for the Commissioner alone to make. Interested persons should not rely upon panel recommendations in determining their course of action with respect to particular devices.

Reports of 18 panels are available. These reports are from the following panels: Anesthesiology; Cardiovascular; Clinical Chemistry; Clinical Toxicology; Dental; Ear, Nose and Throat; Gastroenterological and Urological; General and Plastic Surgery; General Hospital and Personal Use; Hematology; Immunology; Microbiology; Neurological; Obstetrical and Gynecological; Ophthalmic; Orthopedic; Radiology; and Physical Medicine. The report of the panel on Pathology will be available on December 15, 1977 in the office of the Hearing Clerk, Food and Drug Administration (address given above).

Dated: November 18, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 77-34040 Filed 11-28-77; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77c-0153]

COLOR ADDITIVES

Denial of Petition for Listing of Graphite for Use in Externally Applied Drugs and Cosmetics

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), is denying the petition to list graphite as a color additive for use in externally applied drugs and cosmetics, including drugs and cosmetics for use in the area of the eye. Published elsewhere in this issue of the FEDERAL REGISTER is a regulation terminating the provisional listing of graphite.

DATE: Objections by December 29, 1977.

ADDRESS: Objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200), stated that a petition (CAP 8C0080) for the "permanent" listing of graphite as a color additive for use in externally applied cosmetics, including those intended for use in the area of the eye, had been filed by the Toilet Goods Association (now the Cosmetic, Toiletry and Fragrance Association, 1133 15th St. NW., Washington, D.C. 20005). The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A subsequent notice, published in the FEDERAL REGISTER of June 17, 1977 (42 FR 30893), amended the filing of this petition to include the additional use of the color additive in externally applied drugs, including those intended for use in the area of the eye.

The available data for graphite establish that the color additive may contain polynuclear aromatics (PNA's), some of which are known carcinogens. These data are discussed in detail in the preamble to the regulation, published elsewhere in this issue of the FEDERAL REGISTER, that terminates the provisional listing of the color additive for use in cosmetics.

The Commissioner has fully considered the data submitted in support of the petition and other pertinent data related to the use of graphite in externally applied drugs and cosmetics, including drugs and cosmetics intended for use in the area of the eye, and, in view of its contamination with PNA's, concludes that the data before him do not establish that such use of this color will be safe. The petition seeking listing of the color additive for use in externally applied drugs and cosmetics, including drugs and cosmetics intended for use in the area of the eye, is therefore denied.

Any person who will be adversely affected by the foregoing order may, on or before December 29, 1977, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this notice. Received objections may be seen in the above-named office, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: November 23, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 77-34254 Filed 11-28-77; 8:45 am]

[4110-83]

Health Resources Administration

ADVISORY COMMITTEE

Change of Meeting Dates and Agenda

In FEDERAL REGISTER Document 77-31785, appearing at page 57751, in the issue for Friday, November 4, 1977, the December 8-9, 1977, meeting of the "Graduate Medical Education National Advisory Committee" has been changed to a 1-day meeting, scheduled for December 8. The agenda is revised as follows:

Agenda: The meeting will be devoted to: (1) Deliberations concerning preliminary assumptions to guide Committee activities; (2) an exchange of views with private sector organizations; and (3) findings of staff and consultant discussions on selected technical issues.

Dated: November 16, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 77-34087 Filed 11-28-77; 8:45 am]

[4110-83]

FEDERAL ADVISORY COMMITTEES

Filing of Annual Reports

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Reports for the following Health Resources Administration Federal Advisory Committees have been filed with the Library of Congress:

Cooperative Health Statistics Advisory Committee.
Federal Hospital Council.
Health Care Technology Study Section.
Health Services Developmental Grants Study Section.
Health Services Research Study Section.
National Advisory Council on Health Professions Education.
National Advisory Council on Nurse Training.
United States National Committee on Vital and Health Statistics.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, room 1436, 330 Independence Avenue SW., Washington, D.C. 20201, telephone 202-245-6791. Copies may be obtained from the Committee Management Branch, Health Resources Administration, room 9-41, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7183.

Dated: November 17, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 77-34086 Filed 11-28-77; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Tentative Sale No. 53]

CENTRAL AND NORTHERN CALIFORNIA OUTER CONTINENTAL SHELF

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Pursuant to the authority prescribed in 43 CFR 3301.3 (1976), nominations are hereby requested for areas on the central and northern California Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343 (1970)). Nominations will be considered for any or all of that part of the following mapped areas beginning at that point at which the Three Geographical Mile Line intersects the south boundary of block 467, found on OCS Official Protraction Diagram NI 10-6; thence west to the southwest corner of block 458; thence north to the northwest corner of block 370; thence west to the southwest corner of block 313; thence north to the northwest corner of block 974, found on OCS Official Protraction Diagram NJ 10-12; thence west to southwest corner of block 959, found on OCS Official Protraction Diagram NJ 10-11; thence north to the northwest corner of block 299; thence west to the southwest corner of block 250; thence north to the northwest corner of block 118; thence west to the southwest corner of block 61; thence north to the northwest corner of block 325, found on OCS Official Protraction Diagram NJ 10-8; thence west to the southwest corner of block 270; thence north to the northwest corner of block 402, found on OCS Official Protraction Diagram NJ 10-5; thence west to the southwest corner of block 385, found on OCS Official Protraction Diagram NJ 10-4; thence north to the northwest corner of block 77, found on OCS Official Protraction Diagram NJ 10-1; thence west to the southwest corner of block 22; thence north to the northwest corner of block 20, found on OCS Official Protraction Diagram NK 10-7; thence east to that point where the Three Geographical Mile Line intersects the north boundary of block 31; thence southward along the Three Geographical Mile Line to the point of beginning.

OCS Official Protraction Diagrams:

1. NI 10-3.
2. NI 10-6.
3. NJ 10-1.
4. NJ 10-2.
5. NJ 10-4.
6. NJ 10-5.
7. NJ 10-8.
8. NJ 10-11.
9. NJ 10-12.

10. NK 10-7.
11. NK 10-10.

This area lies offshore the State of California. All these OCS Official Protraction Diagrams may be purchased for $2 each from the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 North Los Angeles Street, Room 7127, Los Angeles, Calif. 90012.

All nominations must be described in accordance with the Outer Continental Shelf Official Protraction Diagram prepared by the Bureau of Land Management, Department of the Interior, and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

In addition to requesting nominations of tracts for possible oil and gas leasing within the specified areas, this notice also requests comments identifying particular tracts recommended to be either specifically excluded from oil and gas leasing or leased only under special conditions because of conflicting values or environmental concerns. Particular geological, environmental, biological, archaeological, socio-economic, or other information which might bear upon potential leasing and development of particular tracts is requested where available. Information on these subjects will be used in the tentative selection of tracts which precedes any final selection by the Director pursuant to 43 CFR 3301.4. This information is requested from Federal, State, and local governments, industry, universities, research institutes, environmental organizations, and members of the general public. Comments may be submitted on blocks or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Department's decision whether to make a preliminary selection of particular tracts within these areas for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347 (1970)), and possible leasing. Comments relating to general matters which would be applicable to oil and gas operations in any part of the OCS are not sought at this time.

Nominations and comments must be submitted not later than June 14, 1978, in envelopes labeled "Nominations of Tracts for Leasing on the Outer Continental Shelf Central and Northern California," or "Comments on Leasing on the Outer Continental Shelf Central and Northern California," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Regional Conservation Manager, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, Calif. 99025, and to the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management at his address cited above.

This Call for Nominations and Comments does not in any way commit the Department to leasing on the central and northern California OCS. It is an information-gathering component of the Department's leasing procedure.

Final selection of tracts for competitive bidding will be made only after compliance with established departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved: November 18, 1977.

HEATHER L. ROSS,
Deputy Assistant Secretary
of the Interior.

NOVEMBER 21, 1977.

[FR Doc. 77-34022 Filed 11-28-77; 8:45 am]

[4310-55]

Fish and Wildlife Service

ISSUANCE OF PERMIT FOR MARINE MAMMALS

On Ju ly 15, 1977, a notice was published in the FEDERAL REGISTER vol. 42, No. 136 that an application had been filed with the Fish and Wildlife Service by Robert L. Brownell, Jr., National Fish and Wildlife Laboratory, National Museum of Natural History, Washington, D.C. 20240, for a permit to capture, tag, weigh, sex, age, measure, and release 35 sea otters (*Enhydra lutris*).

Notice is hereby given that on November 7, 1977, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit to National Fish and Wildlife Laboratory, subject to certain conditions set forth therein. The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 534, 1717 H Street NW., Washington, D.C.

Dated: November 23, 1977.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 77-34155 Filed 11-28-77; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Jack E. Moore, 12306 S. Shoemaker, Whittier, Calif. 90605.

The application is for a Captive Self-sustaining Population permit for those species of pheasants listed in 50 CFR 17.11 as threatened, captive self-sustaining populations. The permit would authorize unlimited transactions with other CSSP permittee. The applicant has propagated game birds for approximately 20 years. Facilities for care and maintenance consist of covered pens with provision to protect the birds from adverse weather. Humane care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H St. NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1269. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by December 29, 1977. Please refer to the file number when submitting comments.

Dated: November 23, 1977.

FRED BOLWAHNN,
Acting Chief, Permit Branch,
Federal Wildlife Office, U.S.
Fish and Wildlife Service.

[FR Doc. 77-34156 Filed 11-28-77; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: George T. Prince, Route 518 RD No. 1, Lambertville, N.J. 08530.

This application is for a Captive Self-sustaining Population permit authorizing the purchase and sale for propagation (with other CSSP permit holders) those species of pheasants listed as T (C/P) in 50 CFR section 17.11. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW, Washington, D.C., or writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-1630. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by December 29, 1977. Please refer to the file number when submitting comments.

Dated: November 23, 1977.

FRED BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Office, U.S. Fish and Wildlife Service.

[FR Doc. 77-34157 Filed 11-28-77; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: George T. Prince, Route 518 RD No. 1, Lamertville, N.J. 08530. The applicant requests an Endangered Species Permit authorizing the purchase from Charles Sivelle, Dix Hill, N.Y., of two 9 month old White-eared pheasants (*Crossoptilon crossoptilon drouyni*) one male, one female, for the purpose of captive propagation. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H St. NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1643. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by December 29, 1977. Please refer to the file number when submitting comments.

Dated: November 23, 1977.

FRED BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Office, U.S. Fish and Wildlife Service.

[FR Doc. 77-34158 Filed 11-28-77; 8:45 am]

[4310-70]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations; correction

In the FEDERAL REGISTER of Friday, November 18, 1977, on pages 59560-59561, correct the date upon which the nomination for *Government School* in Sitka, Alaska, was received by the National Park Service. The nomination was received on November 10, 1977, instead of on November 4, 1977.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

[FR Doc. 77-37159 Filed 11-28-77; 8:45 am]

[4310-70]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 18, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by December 9, 1977.

ROBERT B. RETTIG,
Acting Keeper of the National Register.

ARKANSAS

Benton County

Garfield vicinity, *Clanton-Whitney House*, NE of Garfield on U.S. 62.

Columbia County

Magnolia, *Columbia County Courthouse*, Court Square.

Conway County

Morrilton, *Conway County Library*, 101 W. Church St.

Faulkner County

Conway, *Faulkner County Jail*, Courthouse Square.

Greene County

Paragould vicinity, *Old Bethel Methodist Church*, W of Paragould off AR 141.

Lafayette County

Lewisville, *King-Whatley Building*, 2nd and Maple Sts.

Ouachita County

Camden vicinity, *Richmond-Tufts House*, NW of Camden on AR 24.

Phillips County

Helena, *Battery C Site*, off Clark and York Sts.

Pope County

Russellville, *Wilson House*, 214 E. 5th St.

Pulaski County

Little Rock, *Main Street Historic District*, roughly bounded by Cumberland, 2nd, 9th, and Spring Sts.
Little Rock, *Ward, Zeb, Building*, 1001-1003 W. Markham St.
North Little Rock, *Faucette, James Peter, House*, 316 W. 4th St.
North Little Rock, *Howell-Garner-Monfee, House*, 300 W. 4th St.

Washington County

Fayetteville, *Magnolia Company Filling Station*, 492 W. Lafayette St.

GEORGIA

Madison County

Danielsville, *Long, Crawford W., Childhood Home*, Old Ila Rd.

Thomas County

Thomasville, *East Side School*, 120 N. Hansell St.

ILLINOIS

Alexander County

Willard vicinity, *Dogtooth Bend Mounds and Village Site*, S of Willard.

Bureau County

Hennepin vicinity, *Hennepin Canal Historic District*, W to Moline then N to Rock Falls vicinity (also in Henry and Whiteside Counties).

Calhoun County

Kamspville vicinity, *Kamp Mound Group and Village Site*, N of Kampsville.

Cook County

Chicago, *Orchestra Hall*, 220 S. Michigan Ave.
Chicago, *South Loop Printing House District*.

DuPage County

Wheaton, *DuPage County Courthouse*, 2020 Reber St.

Greene County

Hillview vicinity, *Mound House Site*, N of Hillview

Kane County

Aurora, *Copley, Col. Ira C., Mansion*, 434 W. Downer Pl.

Livingston County

Pontiac, *Jones House*, 314 E. Madison St.

McLean County

Normal, *Fell, Jesse, House*, 502 S. Fell St.

Madison County

Alton, *Christian Hill Historic District*, roughly bounded by Broadway, Belle, 7th, Cliff, Bluff and State Sts. (both sides).
Alton, *Middletown Historic District*, roughly bounded by Broadway, Market, Alton, Franklin, Common, Liberty, Humboldt, and Plum Sts.
Alton, *Upper Alton Historic District*, Seminary St., College, Leverett, and Evergreen Aves.

Morgan County

Jacksonville, *Jacksonville Historic District*, roughly bounded by Anna, Mound, Finley, Dayton, Lafayette and Church Sts.

Sangamon County

Springfield, *Iles, Elijah, House*, 1825 S. 5th St.

White County

New Haven vicinity, *Bieker-Wilson Village Site*, NE of New Haven.

Woodford County

Metamora, *Metamora Courthouse*, 113 E. Partridge St.

IOWA

Delaware County

Earlville, *Suckow, Ruth, House*, S. Radcliffe and 5th St.

Jefferson County

Fairfield, *McElhinny House*, 300 N. Court St.

Johnson County

Iowa City, *Pentacrest*, bounded by Clinton, Madison, Jefferson and Washington Sts.
Iowa City, *St. Mary's High School*, 104 E. Jefferson St.

Jones County

Anamosa vicinity, *Green, John A., Estate*, W of Anamosa off U.S. 151.

Story County

Ames vicinity, *Soper's Mill Bridge*, N of Ames off I-35.

Tama County

Tama, *Lincoln Highway Bridge*, E. 5th St.

KENTUCKY

Jefferson County

Middletown, *Historic Resources of Middletown* (partial inventory), U.S. 60/460.

Mason County

Maysville vicinity, *Rust House*, S of Maysville off KY 11.

Robertson County

Mt. Olivet, *Robertson County Courthouse, Court St.*

Shelby County

Waddy, *Waddy Bank Building*, KY 395.

MISSOURI

St. Louis (independent city)

St. Joseph's Roman Catholic Church, 1220 N. 11th St.

NEW MEXICO

Santa Fe County

Santa Fe, *Second Ward School*, 312 Sandoval St.

OREGON

Josephine County

Grants Pass, *Newman United Methodist Church*, 128 NE B St.

Lane County

Eugene, *Palance Hotel (Hotel Gross)*, 488 Willamette St.

Marion County

Silverton vicinity, *Miller Cemetery Church*, 2 mi. NE of Silverton.

Multnomah County

Portland, *Trenkmann Houses*, 525 NM 17th Ave., 526 NW 18th Ave., 1704, 1710, 1716, 1720, 1728, 1734 NW Hoyt St.

PENNSYLVANIA

Centre County

State College, *Thompson, Gen. John, House*, E. Branch Rd.

Chester County

Phoenixville vicinity, *Deery Family Homestead*, W of Phoenixville.

SOUTH DAKOTA

Jerauld County

Wessington Springs, *Shakespeare Garden and Shay House*, off SD 34.

TENNESSEE

Maury County

Columbia, *West Sixth Street and Mayes Place Historic District*, W. 6th St. and Mayes Pl.

TEXAS

Bexar County

San Antonio, *Sullivan, Daniel J., Stable and Carriage House*, 314 4th St.

Travis County

Austin, *Millet Opera House*, 110 E. 9th St.
Austin, *Wahrenberger House*, 208 W. 14th St.

UTAH

Sanpete County

Ephraim, *Peterson, Canute, House*, 10 N. Main St.

WYOMING

Albany County

Laramie, *Wyoming Territorial Penitentiary*, University of Wyoming Stock Farm.
Woods Landing vicinity, *Jelm-Frank Smith Ranch Historic District*, S of Woods Landing on WY 10.

Carbon County

Saratoga, *Saratoga Masonic Hall*, 1st and Main Sts.
Saratoga vicinity, *Ryan Ranch*, S of Saratoga off WY 130.

Fremont County

Riverton, *Riverton Railroad Depot*, 1st and Main Sts.
Riverton vicinity, *Delfelder School House (Delfelder Hall)*, N of Riverton off U.S. 26.

[FR Doc. 77-33912 Filed 11-28-77; 8:45 am]

[4310-70]

National Park Service

OLYMPIC NATIONAL PARK

Boundary Description of the Lake Ozette Addition to Olympic National Park

In accordance with section 320 of the Act of October 21, 1976 (Pub. L. 94-578), notice is hereby given that the boundaries of Olympic National Park are revised to include the lands, privately owned aquatic lands, and interests therein within the boundaries depicted on the revised map entitled "Boundary Map, Olympic National Park, Washington" numbered 149-80-001-B and dated January 1976 which is on file and available for inspection in the office of the National Park Service, Department of the Interior. The description of the boundaries as designated by said map is as follows: Beginning at the NW corner of the SW¼SW¼, Section 29, T. 31 N., R. 15 W., Willamette Meridan in Callam County in the State of Washington; thence easterly to the NE corner of said SW¼SW¼ of Section 29; thence southerly to the SE corner of said SW¼SW¼ of Section 29; thence along the south line of said Section 29 to the S¼ corner of Section 29; thence southerly along the north-south centerline of Section 32, T. 31 N., R. 15 W., to its intersection with a line paralleling and lying 100 feet northeasterly of the northeasterly right of way line of Shoreline Road; thence southeasterly along said parallel alignment to a point in the east line of said Section 32; thence continuing southeasterly along said parallel alignment to a point in the south line of Section 33, T. 31 N., R. 15 W.; thence easterly along said south line of Section 33, also being the north line of Section 4, T. 30 N., R. 15 W., to the NE corner of Government Lot 2 of said Section 4; thence southerly 3,440 feet, more or less, along the east lines of Government Lots 2, 3, and 4 of said Section 4, to a point which lies 800 feet southerly from the NE corner of said Lot 4; thence southeasterly on a straight line to a point in the east line of said Section 4 which lies 720 feet southerly from the NE corner of Government Lot 5 of said Section 4; thence northeasterly on a straight line to a point in the north line of Government Lot 5 of Section 3, T. 30 N., R. 15 W. which lies 530 feet westerly from the NE corner of said Lot 5; thence easterly, along the north lines of Government Lots 5 and 6 of said Section 3, 1,850 feet, more or less, to the NE corner of said Lot 6; thence southerly 1,320 feet, more or less, to the S¼ corner of said Section 3; thence southerly to the SE corner of Government Lot 1 of Section 10, T. 30 N., R. 15 W.; thence southwesterly on a straight line to a point in the east line of Government Lot 3 of said Section 10 which lies 610 feet northerly from the SE corner of said Lot 3; thence southerly, along the east lines of Government Lots 3 and 4 of said Section 10 for 1,445 feet; thence easterly, on a line parallel to the north lines of Government Lots 6 and 7 of said Section 10 for 2,640 feet, more or less, to the east line of the NW¼SE¼ of said Section 10; thence continuing easterly, on a line parallel with the north line of Government Lot 8 of said Section 10 for 620 feet; thence northerly 835 feet, more or less, on a line parallel to the east line of said NW¼SE¼ of Section 10 to a point in the south line of the NE¼ of said Section 10; thence northeasterly on a straight line to the NE corner of the SE¼NE¼ of said Section 10; thence northerly, along the east line of said

Section 10, for 330 feet; thence easterly, along a line parallel to the north line of Section 11, T. 30 N., R. 15 W., to a point in the westerly right of way line of that certain road known as the Crown Zellerbach Road; thence southerly, along said westerly right of way line, to a point in the north line of Government Lot 6 of said Section 11; thence westerly, along said north line of Lot 6, to a point which lies 520 feet westerly from the NE corner of said Lot 6; thence southerly, along a line parallel to the north-south centerline of said Section 11, 1,320 feet, more or less, to a point in the south line of said Section 11; thence southwesterly on a straight line to a point in the east line of Government Lot 3 of Section 14, T. 30 N., R. 15 W., which lies 660 feet northerly from the SE corner of said Lot 3, thence westerly, along a line parallel to the south line of said Lot 3, for 800 feet; thence southerly for 660 feet, more or less, to a point in the south line of said Lot 3 which lies 800 feet westerly from the SE corner of said Lot 3; thence southerly for 1,320 feet, more or less, to a point in the south line of Government Lot 4 of said Section 14; thence easterly along the south line of said Lot 4, for 800 feet to the SE corner of said Lot 4; thence southerly, along the east line of Government Lot 5 of said Section 14, to the SE corner of said Lot 5; thence southerly along the east line of Government Lots 1 and 2 of Section 23, T. 30 N., R. 15 W., to the southeast corner of said Government Lot 2; thence westerly along the south line of said Lot 2 to the W¼ corner of said Section 23; thence westerly, along the east-west centerline of Section 22, T. 30 N., R. 15 W., to a point which lies 200 feet westerly from the NE corner of Government Lot 6 of said Section 22; thence southwesterly on a straight line to a point in the south line of said Lot 6 which lies 660 feet westerly from the SE corner of said Lot 6; thence southerly for 1,320 feet, more or less, to a point in the south line of Government Lot 7 of said Section 22 which lies 660 feet westerly from the SE corner of said Lot 7; thence southeasterly on a straight line to the SE corner of Government Lot 1 of Section 27, T. 30 N., R. 15 W.; thence easterly, along the north line of Government Lot 2 of said Section 27 for 100 feet; thence southerly 1,320 feet, more or less, to a point in the south line of Government Lot 2 of said Section 27 which lies 1,220 feet westerly from the SE corner of said Lot 2; thence southeasterly on a straight line to a point in the south line of Government Lot 3 of said Section 27 which lies 950 feet westerly from the SE corner of said Lot 3; thence southeasterly on a straight line to the S¼ corner of said Section 27; thence easterly, along the south line of said Section 27, for 200 feet; thence southerly for 660 feet, more or less, along a line parallel to the north-south centerline of Section 34, T. 30 N., R. 15 W., to a point in the south line of the N½NW¼NE¼ of said Section 34; thence westerly for 200 feet along said south line of the N½NW¼NE¼, to the north-south centerline of said Section 34; thence southerly, along said north-south centerline to a point which lies 800 feet northerly from the S¼ corner of said Section 34; thence westerly, parallel to the south line of said Section 34, for 585 feet; thence southerly, parallel to the north-south centerline of said Section 34, for 800 feet, more or less, to a point in the south line of said Section 34; thence southerly along a line parallel to the east line of Government Lot 2 of Section 3, T. 29 N., R. 15 W., for 760 feet; thence westerly, along a line parallel to the south line of said Lot 2, for 300 feet; thence southerly, along lines parallel to the east lines of Government Lots 2 and 6, to a point in the north line of Government Lot 7 of said Section 3; thence westerly, along said north line of Lot 7, for 220 feet; thence southerly, along a line parallel to the east line of said Lot 7 to a point in the south line of said Section 3; thence southerly, along a line parallel to the east line of Government Lot 1 of Section 10, T. 29 N., R. 15 W., to a point in the south line of said Lot 1; thence westerly, along said south line of Lot 1, for 360 feet, more or less, to the NE corner of Government Lot 3 of said Section 10; thence southerly, along the east line of said Lot 3; for 440 feet, thence westerly, along a line parallel to the south line of said Lot 3, to a point in the west line of said Lot 3; thence northwesterly on a straight line to a point in the south line of Government Lot 2 of said Section 10 which lies 660 feet easterly from the SW corner of said Lot 2; thence northerly to a point in the north line of said Section 10 which lies 660 feet easterly from the NW corner of said Section 10, thence northwesterly to a point in the west line of Section 3, T. 29 N., R. 15 W. which lies 600 feet northerly from the SW corner thereof; thence northerly, along said west line of Section 3, to the NE corner of the SE¼SE¼ of Section 4, T. 29 N., R. 15 W.; thence northwesterly on a straight line to a point in the east-west centerline of said Section 4 which lies 960 feet easterly from the NE corner of the NW¼SE¼ of said Section 4; thence westerly 2,280 feet, more or less, along said east-west centerline of Section 4, to the center of Section 4; thence northerly, along the north-south centerline of said Section 4, to the N¼ corner of said Section 4; thence northwesterly on a straight line to a point in the east line of Section 32, T. 30 N., R. 15 W., which lies 1,220 feet northerly from the SE corner of said Section 32; thence westerly, along a line parallel to the south line of said Section 32, for 1,450 feet, more or less, to a point which lies 1,190 feet easterly from the north-south centerline of Section 32; thence northerly, along a line parallel to said north-south centerline of Section 32, to a point in the south line of Government Lot 5 of said Section 32 which lies 1,190 feet easterly from the center of Section 32; thence northwesterly on a straight line to a point in the north line of said Lot 5 which lies 700 feet easterly from the NW corner of said Lot 5; thence westerly, along said north line of Lot 5, for 700 feet to said NW corner of Lot 5; thence southwesterly on a straight line to a point in the present east boundary of Olympic National Park and in the east line of Government Lot 2 of said Section 32 which lies 390 feet northerly from the SE corner of said Lot 2. It is the intent of this description to also include Lot 2 of Section 15, T. 30 N., R. 15 W. (Garden Island); Lot 1 of Section 28, and Lot 1 of Section 33, both in T. 30 N., R. 15 W. (Tivoli Island); and, Lot 3 of Section 3, T. 29 N., R. 15 W. (Baby Island).

Dated: November 18, 1977.

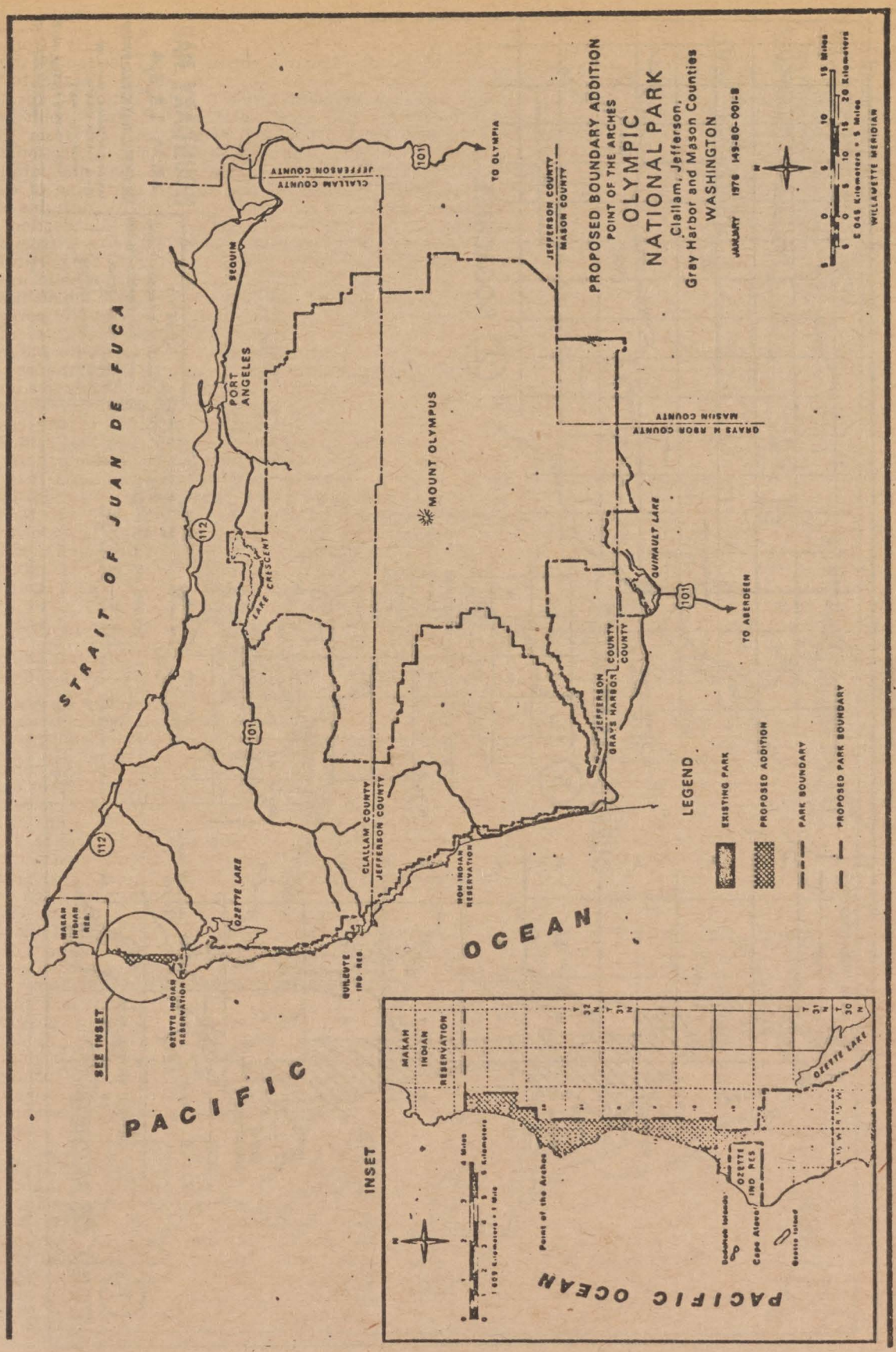
CECIL D. ANDRUS,
Secretary of the Interior.

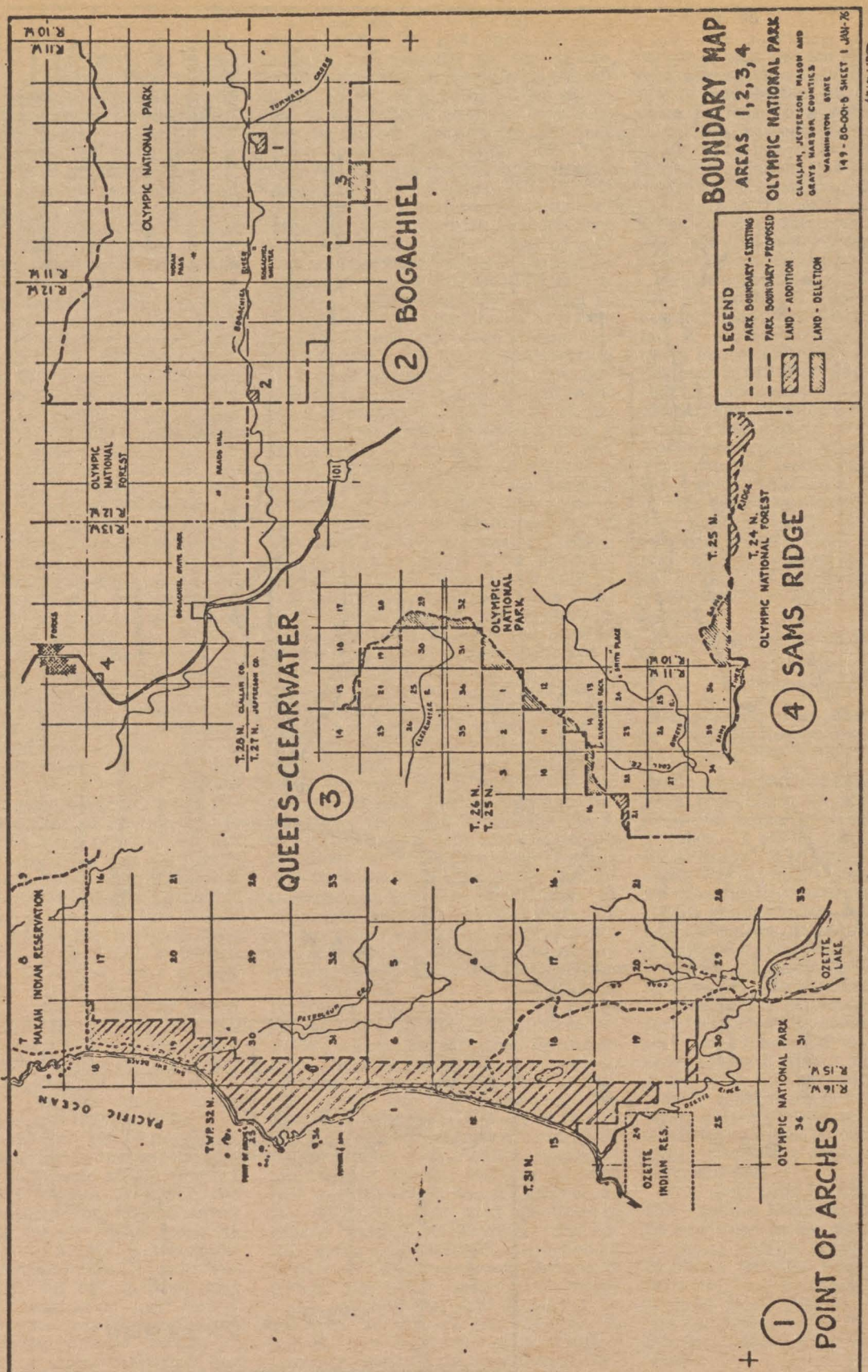
ESTABLISHMENT OF BOUNDARY AROUND LAKE OZETTE IN OLYMPIC NATIONAL PARK BOUNDARY ADJUSTMENT

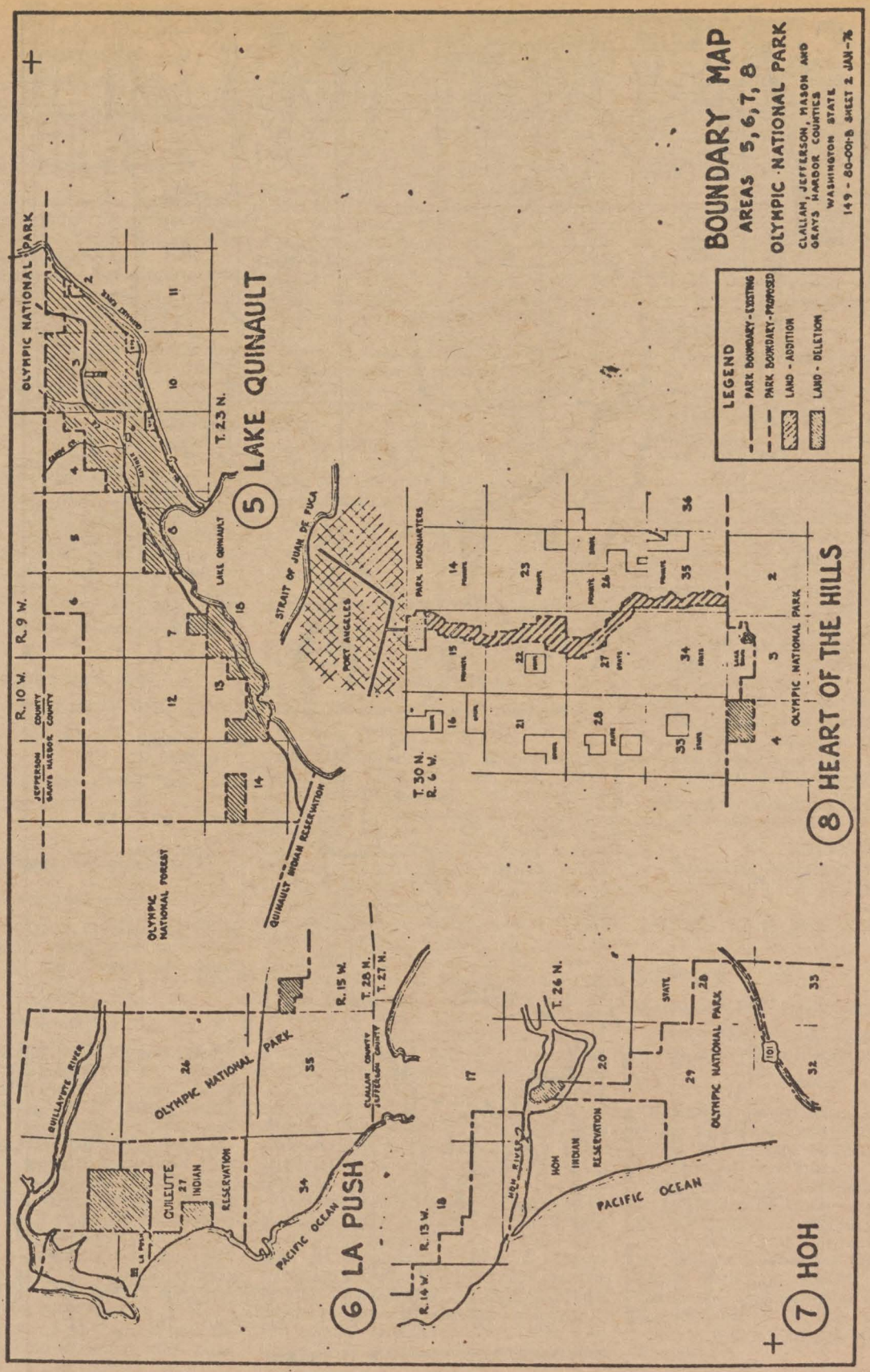
The adjustment of Olympic National Park boundaries, as provided in Pub. L. 94-578 signed by President Ford on October 21, 1976, adds the eastern shore line of Lake Ozette. The western shore was already a part of the Olympic ocean strip area of the park.

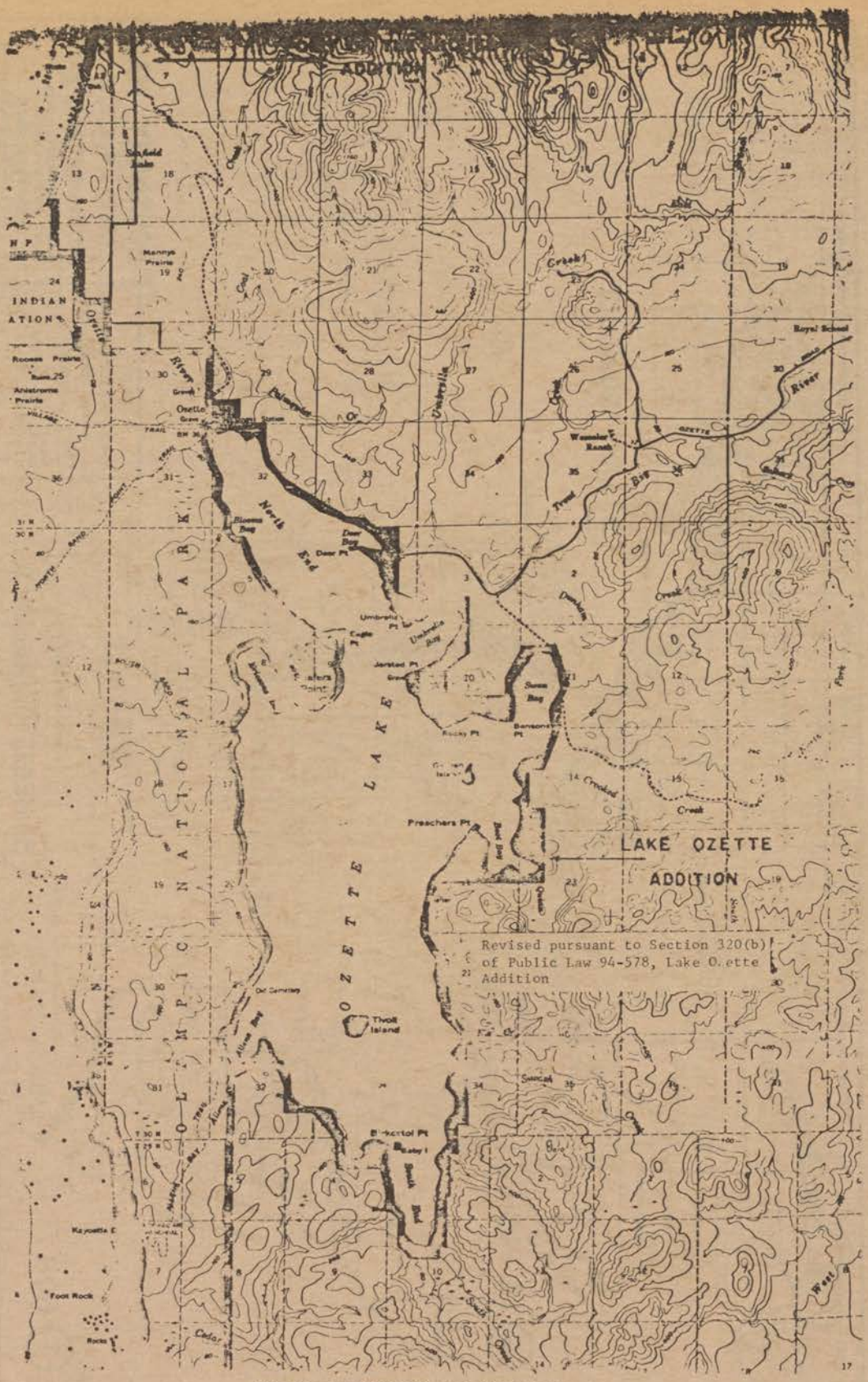
This boundary has been determined after meetings with the Governor of Washington, Clallam County commissioners, and the landowners whose land will be purchased. The public law provides for a minimum strip of 200 feet back from the lake shore to protect the fringe of old-growth and second-growth forest along the lake shore from further logging. Approximately 1,088 acres is included, and in areas where greater scenic protection could be provided at prominent points along the shore line, the strip has been widened.

The new boundary is described in the FEDERAL REGISTER, and maps can be examined in the Pacific Northwest Regional Office, Fourth and Pike Building, Seattle, Wash.; at Olympic National Park Headquarters, 600 Park Avenue, Port Angeles, Wash.; and at the Land Acquisition Field Office, 403 South Lincoln, Suite 4, Port Angeles, Wash.


PROPOSED BOUNDARY ADDITION
POINT OF THE ARCHES
OLYMPIC
NATIONAL PARK
Clallam, Jefferson,
Gray Harbor and Mason Counties
WASHINGTON
JANUARY 1978 143-80-001-B
STRAIT OF JUAN DE FUCA
PACIFIC OCEAN
PORT ANGELES
SEQUIM
MOUNT OLYMPUS
LAKE CRESCENT
QUINAULT LAKE
OZETTE LAKE
TO OLYMPIA
TO ABERDEEN
CLALLAM COUNTY
JEFFERSON COUNTY
MASON COUNTY
GRAYS HARBOR COUNTY
MAKAH INDIAN RES.
OZETTE INDIAN RESERVATION
QUILEUTE IND. RES
HOH INDIAN RESERVATION
SEE INSET
LEGEND
EXISTING PARK
PROPOSED ADDITION
PARK BOUNDARY
PROPOSED PARK BOUNDARY
INSET
MAKAH INDIAN RESERVATION
OZETTE LAKE
OZETTE IND RES
Point of the Arches
Cape Alava
Sand Island
PACIFIC OCEAN


BOUNDARY MAP
AREAS 1, 2, 3, 4
OLYMPIC NATIONAL PARK
CLALLAM, JEFFERSON, MASON AND GRAYS HARBOR COUNTIES
WASHINGTON STATE
149-80-00-6 SHEET 1 JAN-76
LEGEND
PARK BOUNDARY-EXISTING
PARK BOUNDARY-PROPOSED
LAND - ADDITION
LAND - DELETION
1 POINT OF ARCHES
2 BOGACHIEL
3 QUEETS-CLEARWATER
4 SAMS RIDGE
OLYMPIC NATIONAL PARK
OLYMPIC NATIONAL FOREST
MAKAH INDIAN RESERVATION
OZETTE INDIAN RES.
OZETTE LAKE
PACIFIC OCEAN
T. 26 N.
T. 25 N.
T. 24 N.
T. 31 N.
T. 32 N.
T. 27 N.
T. 26 N.
T. 25 N.
R. 10 W.
R. 11 W.
R. 12 W.
R. 13 W.
R. 15 W.
R. 16 W.
101


BOUNDARY MAP
AREAS 5, 6, 7, 8
OLYMPIC NATIONAL PARK
CLALLAM, JEFFERSON, MASON AND GRAYS HARBOR COUNTIES
WASHINGTON STATE
149 - 80-001-B SHEET 2 JAN-76
LEGEND
PARK BOUNDARY-EXISTING
PARK BOUNDARY-PROPOSED
LAND - ADDITION
LAND - DELETION
5 LAKE QUINAULT
6 LA PUSH
7 HOH
8 HEART OF THE HILLS
OLYMPIC NATIONAL PARK
OLYMPIC NATIONAL FOREST
QUINAULT INDIAN RESERVATION
LAKE QUINAULT
STRAIT OF JUAN DE FUCA
PORT ANGELES
PARK HEADQUARTERS
QUILLAYUTE RIVER
QUILEUTE INDIAN RESERVATION
PACIFIC OCEAN
HOH INDIAN RESERVATION
HOH RIVER
JEFFERSON COUNTY
GRAYS HARBOR COUNTY
CLALLAM COUNTY
JEFFERSON COUNTY
R. 10 W.
R. 9 W.
R. 15 W.
R. 14 W.
R. 13 W.
T. 25 N.
T. 28 N.
T. 27 N.
T. 26 N.
T. 30 N.
R. 6 W.



[FR Doc. 77-33905 Filed 11-28-77; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[603-TA-3]

MONUMENTAL TEAK WINDOWS FROM SWEDEN

Termination of Preliminary Investigation

The U.S. International Trade Commission, pursuant to the provisions of section 603 of the Trade Act of 1974 (19 U.S.C. 2482), on July 7, 1977, ordered a preliminary investigation to determine whether to institute an investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), with respect to the importation and sale in the United States of monumental teak windows from Sweden. Notice of the investigation was published in the FEDERAL REGISTER on July 28, 1977 (42 FR 38439).

On the basis of the Commission preliminary investigation, including the investigative staff's final report, the Commission determined that there is insufficient evidence at present to institute an investigation pursuant to section 337 of the Tariff Act of 1930, as amended, and the preliminary investigation was terminated on November 15, 1977.

By order of the Commission.

Issued: November 23, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc. 77-34218 Filed 11-28-77; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

ACTION TO ENFORCE COMPLIANCE WITH TERMS OF NPDES PERMIT AND TO IMPOSE PENALTIES FOR VIOLATION OF THAT PERMIT

Consent Decree

In acco rdance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on June 6, 1977, a consent decree in *United States* v. *American Cyanamid Co.*, was entered by the U.S. District Court for the Eastern District of Louisiana. The decree requires defendant to comply with the terms of its NPDES permit by March 1, 1978, and would impose a civil penalty of $500 per day from July 1, 1977, until defendant installs and makes operational a control system which will allow it to comply with the terms of its NPDES permit.

The Department of Justice will receive for a period of thirty (30) days from the date of the notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *American Cyanamid Co.*, D.J. Ref. 90-5-1-1-793.

The consent decree may be examined at the office of the United States Attorney, Eastern District of Louisiana, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130; at the Region VI office of the Environmental Protection Agency, Enforcement Division, First International Building, 1201 Elm Street, Dallas, Tex. 75270; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, room 2625, 9th Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the consent decree 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,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 77-34160 Filed 11-28-77; 8:45 am]

[4410-01]

STATE INDUSTRIES, INC.

Proposed Consent Decree (Federal Water Pollution Control Act)

In accordance with Departmental Policy, 28 CFR 50.7, 38 F.R. 19029, notice is hereby given that on November 14, 1977, a proposed consent decree in *United States* v. *State Industries, Inc.*, No. 76-230-NA-CV, was lodged with the United States District Court for the Middle District of Tennessee. The proposed consent decree requires the company to install a new waste water treatment system, to meet revised effluent limitations by May 1, 1978, and to pay a penalty of $10,000.

The Department of Justice will receive on or before December 29, 1977, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *State Industries, Inc.*, D.J. Ref. 90-5-1-1-575.

The proposed consent decree may be examined at the Office of the United States Attorney for the Middle District of Tennessee, 879 U.S. Courthouse, Nashville, Tenn. 37203; at the Region IV Office of the United States Environmental Protection Agency, Enforcement Division, 345 Courtland Street, NE., Atlanta, Ga. 30308; and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2645, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 77-34169 Filed 11-28-77; 8:45 am]

[4510-30]

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 Federal Committee on Apprenticeship's Subcommittee on Equal Apprenticeship Opportunity, scheduled for Wednesday, November 30, 1977, at the Labor Department Building, room N-4437 (A-C), 200 Constitution Avenue NW., Washington, D.C., which was published in the FEDERAL REGISTER on November 11, 1977 (42 FR 58794).

This cancellation is due to conflicting national meetings of concerned private interest groups. The meeting will be rescheduled at a later date.

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

ERNEST G. GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc. 77-34255 Filed 11-28-77; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on December 15, 1977.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970. The Committee meeting will be held in the New Department of Labor Building, Room N-5437, 3rd Street and Constitution Avenue NW., Washington, D.C. The meeting will begin at 9 a.m. The public is invited to attend.

The agenda will include reports on OSHA and NIOSH activities, and plans for future meetings.

For additional information contact:

Stephen Kaffee, Division of Consumer Affairs, Room N-3635, Department of Labor, OSHA, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, phone 202-523-8024.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting date, preferably with 20 copies, will be presented to the Committee and included in the official record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should include the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Committee Chairperson, to the extent which time permits.

Official records of the meeting will be available for public inspection at the above address.

Signed at Washington, D.C., this 23rd day of November 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 77-34256 Filed 11-28-77; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

VIRGIN ISLANDS STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act), by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On September 11, 1974, notice was published in the FEDERAL REGISTER (Vol. 38 FR 24896), of the approval of the Virgin Islands plan and adoption of Subpart S to Part 1952 containing the decision.

The Virgin Islands plan provides for the adoption of Federal standards as Virgin Islands standards by reference without publishing such regulations in full, provided that such regulations shall be clearly identified in the adopting regulation, and that copies of the FEDERAL REGISTER containing such regulations shall be maintained in the Office of the Lieutenant Governor, available for inspection by the public. On November 5, 1974, notice was published in the FEDERAL REGISTER approving the adoption by reference on March 21, 1974, of Federal Standards 29 CFR Part 1910, 1918, and 1926, as Virgin Islands rules and regulations, 24 V.I.R.R. 36(b) 1, 2, and 3.

The Virgin Islands approved plan excludes Subpart D of 29 CFR Part 1926 (Occupational Health and Environmental Control), Subpart G of 29 CFR Part 1910 (Occupational Health and Environmental Control), and § 1910.13 (Ship repairing), § 1910.14 (Shipbuilding), § 1910.15 (Shipbreaking), and § 1910.16 (Longshoring), which reference Parts 1915, 1916, 1917, and 1918 of 29 CFR. In addition, § 1910.19 (Asbestos Dust), of Part 1910 and Part 1919 (Gear Certification), are excluded by the scope of the Virgin Islands 18(b) plan. Notwithstanding the exclusion of Longshoring, 29 CFR Part 1918 has been adopted by reference since § 1926.605 (Marine Operations and Equipment), references 29 CFR Part 1918.

Section 1953.20 of 29 CFR provides that where "any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In response to Federal standards changes, the State has submitted by a letter dated September 15, 1977, from Mr. Jean D. Larsen, Assistant Commissioner of the Virgin Islands Department of Labor, and Director of the Division of Occupational Safety and Health, to Mr. Alfred Barden, Regional Administrator, and incorporated as a part of the plan, State certification documenting promulgation of regulations (September 1, 1977), adopting all changes and additions to 29 CFR Parts 1910, 1918, 1926, 1928 as 24 V.I.R.R. 36(b) 1, 2, 3, 4 up to and including September 1, 1977. (On March 22, 1977, the Virgin Islands supplement for the adoption of all Federal changes to Standards up to and including March 4, 1977, was submitted to the National Office.)

The authority to adopt such standards is contained in Title 3, section 940, of the Virgin Islands Code. The adopting regulations were issued by the Commissioner of Labor of the Virgin Islands Department of Labor and were approved and promulgated by the Governor of the Virgin Islands.

2. *Decision.* Having reviewed the Virgin Islands Regulations providing for the adoption of Federal standards by reference, it has been determined that Virgin Islands Regulations are identical to Federal standards and are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during the normal business hours at the following locations: Office of the Regional Administrator, Region II, 1515 Broadway, room 3445, New York, N.Y. 10036; Office of the Director for Federal Compliance and State Programs, room N-3605, 200 Constitution Avenue NW., Washington, D.C. 20210; Department of Labor, Government of the Virgin Islands, Dronigans Gade, Charlotte Amalie, St. Thomas, V.I. 00801, and at Hospital Street, Christiansted, St. Croix, V.I. 00820.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Virgin Islands plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

(1) The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

(2) The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective November 25, 1977.

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

Signed at New York, N.Y., this 28th day of September 1977.

RICHARD F. ANDREE,
Acting Regional Administrator, Occupational Safety and Health.

[FR Doc. 77-34029 Filed 11-28-77; 8:45 am]

[4510-30]

Office of the Secretary

DEFERRAL OF FEDERAL UNEMPLOYMENT TAX CREDIT REDUCTIONS

Findings of the Secretary of Labor

Pursuant to section 3302(c)(2) of the Internal Revenue Code of 1954, as amended by section 110(a) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (Pub. L. 94-45, approved June 30, 1975; 89 Stat. 236, 239), a finding must be made as of November 10, 1977, with respect to each State named herein as to whether the incremental reduction in total credits, on account of an outstanding balance of advances made to each State pursuant to title XII of the Social Security Act, shall apply with respect to the taxable year 1977.

A State may qualify for deferral of the incremental reduction in credit with respect to 1977 if it takes certain actions set forth in clause (i) or clause (ii), § 601.5(f)(2), title 20, Code of Federal Regulations.

Clause (i) requires, (A) an average employer tax rate based on total wages in employment which exceeds the State's average benefit cost rate for the preceding 10 year period, (B) an effective minimum employer tax rate which is not less than 1 percent of the wages of any employer which are subject to the Federal Unemployment Tax Act, and (C) a maximum employer tax rate which exceeds 2.7 percent of the wages of any employer which are subject to the Federal Unemployment Tax Act, or provision for no reduced tax rates.

Clause (ii) requires, (A) amendment of a State unemployment compensation law to result in increased contributions to the State unemployment fund and allocation from the increased contributions of a sum equal to the reduction in credit for 1977, and (B) repayment of that sum to the Federal unemployment account prior to November 10, 1977.

The District of Columbia had an outstanding balance of advances on January 1, 1976, and January 1, 1977, and has not taken the actions prescribed in either clause (i) or clause (ii) of 20 CFR 601.5(f)(2).

I hereby make a finding that, as of November 10, 1977, the District of Columbia failed to meet the criteria of 20 CFR 601.5(f)(2), and is therefore subject to an incremental reduction in credit of 0.3 percent with respect to 1977, pursuant to section 3302(c)(2)(A)(i) of the Federal Unemployment Tax Act.

The following States have taken appropriate action to satisfy the criteria in clause (i), § 601.5(f)(2) of Title 20, Code of Federal Regulations. Each State has an effective minimum employer tax rate of not less than 1.0 percent, an effective maximum employer tax rate exceeding 2.7 percent (or has suspended reduced rates), and an average employer tax rate which exceeds the State 10-year average benefit cost rate, as set forth in the following schedule:

	Average Employer Tax Rate	Benefit Cost Rate
Delaware	1.23	1.19
Illinois	1.15	.95
Maine	1.77	1.60
Massachusetts	1.91	1.82
Michigan	1.80	1.48
Minnesota	1.43	1.02
New Jersey	1.99	1.96
Pennsylvania	1.66	1.60
Puerto Rico	2.95	2.82
Vermont	1.78	1.77
Washington	2.00	1.96

I hereby make a finding as of November 10, 1977, that the States of Delaware, Illinois, Maine, Massachusetts, Michigan, Minnesota, New Jersey, Pennsylvania, Puerto Rico, Vermont, and Washington have satisfied the criteria specified in clause(i) of 20 CFR 601.5(f)(2). Therefore, the incremental reduction in total credits pursuant to section 3302(c)(2) of the Federal Unemployment Tax Act, on account of an outstanding balance of advances made to such States, shall not apply with respect to the taxable year beginning on January 1, 1977.

The States of Alabama, Connecticut, and Rhode Island have taken appropriate action to satisfy the criteria in clause (ii), § 601.5(f)(2) of Title 20, Code of Federal Regulations. Each of these States has paid into the Federal unemployment account in the Unemployment Trust Fund, from its unemployment fund, an amount equal to the amount of the additional tax otherwise payable through the reduction in total credits under section 3302(c)(2) of the Internal Revenue Code of 1954. The amount indicated below was paid by each State prior to November 10, 1977.

	Amount of Repayment
Alabama	$12,800,000
Connecticut	$27,300,000
Rhode Island	$3,726,000

I hereby make a finding as of November 10, 1977, that the States of Alabama, Connecticut, and Rhode Island have satisfied the criteria specified in clause (ii) of 20 CFR 601.5(f)(2), and, therefore, the incremental reduction in total credits pursuant to section 3302(c)(2) of the Federal Unemployment Tax Act shall not apply with respect to the taxable year beginning on January 1, 1977.

Signed at Washington, D.C., on November 18, 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 77-34028 Filed 11-28-77; 8:45 am]

[4510-28]

[TA-W-1785, 1787]

JEM FASHIONS, INC. AND MEL MAR FASHIONS, INC.

Revised Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, on August 15, 1977, the Department of Labor issued a negative determination applicable to workers and former workers of Mel Mar Fashions, Inc. (successor firm to Jem Fashions, Inc.), Asbury Park, N.J. Notice of the determination was published in the FEDERAL REGISTER on August 23, 1977 (42 FR 42404).

At the request of a petitioning union representative, a review investigation was instituted by the Director of the Office of Trade Adjustment Assistance. The review investigation developed further information concerning the closing of Jem Fashions, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

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

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that with respect to Jem Fashions, Inc., all of the above criteria have been met; with respect to Mel Mar Fashions, Inc., criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

After increasing during the first three quarters of 1976, employment of production workers declined 35 percent during the fourth quarter of 1976 compared to the previous quarter. Average weekly hours, compared to the previous quarter, remained the same during the third quarter of 1976 before declining 40 percent during the fourth quarter of 1976. There were temporary plant shutdowns at Jem Fashions during October and December 1976. The firm permanently closed in December 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Unit production by Jem Fashions, Inc. increased 28 percent in 1976 from 1975. Compared to the same quarter of the previous year, production declined 12 percent and 1 percent. Respectively, during the third and fourth quarters of 1976. Production by Jem Fashions consisted solely of women's coats.

INCREASED IMPORTS

Imports of women's, misses', and children's coats and jackets increased 3 percent from 1,478 thousand dozen units in 1974 to 1,517 thousand dozen units in 1975 and increased 48 percent to 2,252 thousand dozen units in 1976.

CONTRIBUTED IMPORTANTLY

Jem Fashions operated considerably below capacity levels and Jem Fashions employees were rarely employed on a fulltime basis in 1976.

Aggregate imports of women's clothing increased substantially on an annual basis from 1974 through 1976. In 1976 imports of women's, misses', and children's coats accounted for more than one out of every three coats purchased and more than one out of every two coats produced domestically. It is believed that a large proportion of imports are directly competitive with the coats formerly produced at Jem Fashions.

The owners of Jem Fashions decided after several years of underutilization of plant and employees to sell the business.

After Jem Fashions was sold, it reopened in 1977 under the corporate name Mel Mar Fashions and produced a different line of goods.

The clothing manufacturer that formerly was the principal customer of Jem Fashions ceased business with Mel Mar Fashions, Inc., in 1977 because Mel Mar Fashions is regulated by a different set of union-employer regulations than was Jem Fashions.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced at Jem Fashions, Inc., Asbury Park, N.J., contributed importantly to the total or partial separations of workers at that facility. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Jem Fashions, Inc., Asbury Park, N.J., who became totally or partially separated from employment on or after July 1, 1976, and on or before December 31, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that imports of articles like or directly competitive with women's coats and women's sportswear produced at Mel Mar Fashions, Inc., Asbury Park, N.J., did not contribute importantly to a decline in production at the firm.

Signed at Washington, D.C., this 14th day of November 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-34030 Filed 11-28-77; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2084]

FOURCO GLASS CO., ADAMSTON DIVISION, CLARKSBURG, W. VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2084: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 23, 1977, in response to a worker petition received on May 20, 1977, which was filed by the United Glass and Ceramic Workers Union on behalf of workers and former workers producing sheet glass at the Fourco Glass Co., Adamston Division, Clarksburg, W. Va.

The notice of investigation was published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fourco Glass Co., its customers, the United Glass and Ceramic Workers Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

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

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation revealed that criterion (4) has not been met.

The evidence developed during the Departments' investigation revealed that the closure of sheet glass facilities at the Adamston, Rolland, and Harding divisions of Fourco Glass Co. is attributable to the company's decision to replace sheet glass with more economical, higher quality float glass. This is consistent with the switch within the flat glass industry from sheet glass to float glass.

In recent years, technological improvements in the production of float glass have enabled manufacturers to produce float glass in thicknesses comparable to single strength and double strength window glass. Subsequent to high initial capital investment, lower unit costs are realized because of the capital intensive nature of the production process. This along with the superior quality of float glass has resulted in the shift from sheet glass to float glass, beginning in the 1960's. This shift is reflected in aggregate production and consumption data for the two types of glass. U.S. production of sheet glass declined in each year from 1972 to 1975. Production increased from 1975 to 1976, in part due to recovery from the 1975 recession. However, the level of sheet glass production in 1976 was less than half of the level in 1972. In contrast, U.S. production of plate and float glass increased in each year from 1972 to 1976, with the exception of 1974, when production declined less than 5 percent. In 1976, U.S. production of plate and float glass was 88 percent higher than the level in 1972.

Apparent U.S. consumption of sheet glass declined in every year from 1972 to 1975. Despite an increase in apparent consumption of sheet glass from 1975 to 1976, the level of sheet glass consumption in 1976 was only 44 percent of the consumption level in 1972. Apparent U.S. consumption of plate and float glass increased in each year from 1972 to 1976, except for 1974 when it declined 6 percent from 1973. In 1976, apparent U.S. consumption of plate and float glass was 76 percent higher than the level of consumption in 1972.

The switch to float glass is further evidenced in data on the number of domestic producers with sheet glass facilities versus the number of domestic producers with float glass lines and in a breakdown of industry wide flat glass capacity. In 1970, sheet glass was produced by 5 firms at 14 establishments. In 1976, sheet glass was produced at 7 establishments by 4 firms. All the sheet glass facilities currently operating within the United States are owned by firms which have made large capital investments in the float glass process. These firms are gradually dismantling sheet glass operations as new float glass facilities are fully developed and operational. By the end of 1977, it is expected that only 3 firms will produce sheet glass at a total of three establishments. In contrast, float glass is produced domestically in about 25 production facilities in 1977.

Similarly, of total flat glass manufacturing capacity in 1972, 58 percent was available for the production of float, 33 percent for sheet and 9 percent for plate. By 1975, capacity ratios changed to 82 percent float, 16 percent sheet and 2 percent plate.

Fourco was one of the last flat glass manufacturers to make the switchover to float. In 1975, Fourco still had only sheet glass capacity. Until May 1976, Fourco operated only sheet glass facilities—two in Clarksburg, W. Va. (the Rolland Division and the Adamston Division) and one in Fort Smith, Ark. (the Harding Division). In May 1976, Fourco began producing float glass at a plant in Jerry Run, W. Va., for processing at the Rolland Division. Subsequently, the sheet glass tank at Rolland was shut down in August 1976. The switch by Fourco to float was completed when the Harding and Adamston Divisions, which produced only sheet glass, were shut down in January 1977.

The results of an OTAA survey of customers of Fourco representing 25 percent of sales in 1976 gave further evidence of the switch to float. Five customers representing 7.6 percent of Fourco sales in 1976 or 30.4 percent of the samples of sales emphasized that by 1977 either most or all of their flat glass purchases were of float. Of the firms surveyed, only one customer representing 1.1 percent of Fourco's sales in 1976, or 4.4 percent of the sales represented by the sample decreased purchases from Fourco relative to import purchases. This customer decreased purchases from both the subject firm and foreign sources while increasing purchases from other domestic manufacturers.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sheet glass produced at the Fourco Glass Co., Adamston Division, Clarksburg, W. Va., did not contribute importantly to the separation of workers or to the decrease in sales or production at that division of the firm.

Signed at Washington, D.C., this 18th day of November 1977.

Harry Grubert,
Director, Office of Foreign Economic Research.

[FR Doc. 77-34257 Filed 11-28-77; 8:45 am]

[4510-28]

[TA-W-2085]

FOURCO GLASS CO., ROLLAND DIVISION, CLARKSBURG, W. VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2085: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 23, 1977, in response to a worker petition received on May 20, 1977, which was filed by the United Glass and Ceramic Workers Union on behalf of workers and former workers producing sheet glass at the Fourco Glass Co., Rolland Division, Clarksburg, W. Va.

The notice of investigation was published in the Federal Register on June 3, 1977 (42 FR 28634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fourco Glass Co., its customers, the United Glass and Ceramic Workers Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

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

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation revealed that criterion (4) has not been met.

The evidence developed during the Departments' investigation revealed that the closure of sheet glass facilities at the Adamston, Rolland, and Harding divisions of Fourco Glass Co., is attributable to the Company's decision to replace sheet glass with more economical, higher quality float glass. This is consistent with the switch within the flat glass industry from sheet glass to float glass.

In recent years, technological improvements in the production of float glass have enabled manufacturers to produce float glass in thicknesses comparable to single strength and double strength window glass. Subsequent to high initial capital investment, lower unit costs are realized because of the capital intensive nature of the production process. This along with the superior quality of float glass has resulted in the shift from sheet glass to float glass, beginning in the 1960's. This shift is reflected in aggregate production and consumption data for the two types of glass. U.S. production of sheet glass declined in each year from 1972 to 1975. Production increased from 1975 to 1976, in part due to recovery from the 1975 recession. However, the level of sheet glass production in 1976 was less than half of the level in 1972. In contrast, U.S. production of plate and float glass increased in each year from 1972 to 1976, with the exception of 1974, when production declined less than 5 percent. In 1976, U.S. production of plate and float glass was 88 percent higher than the level in 1972.

Apparent U.S. consumption of sheet glass declined in every year from 1972 to 1975. Despite an increase in apparent consumption of sheet glass from 1975 to 1976, the level of sheet glass consumption in 1976 was only 44 percent of the consumption level in 1972. Apparent U.S. consumption of plate and float glass increased in each year from 1972 to 1976, except for 1974 when it declined 6 percent from 1973. In 1976, apparent U.S. consumption of plate and float glass was 76 percent higher than the level of consumption in 1972.

The switch to float glass is further evidenced in data on the number of domestic producers with sheet glass facilities versus the number of domestic producers with float glass lines and in a breakdown of industry wide flat glass capacity. In 1970, sheet glass was produced by 5 firms at 14 establishments. In 1976, sheet glass was produced at 7 establishments by 4 firms. All the sheet glass facilities currently operating within the United States are owned by firms which have made large capital investments in the float glass process. These firms are gradually dismantling sheet glass operations as new float glass facilities are fully developed and operational. By the end of 1977, it is expected that only 3 firms will produce sheet glass at a total of three establishments. In contrast, float glass is produced domestically in about 25 production facilities in 1977.

Similarly, of total flat glass manufacturing capacity in 1972, 58 percent was available for the production of float, 33 percent for sheet and 9 percent for plate. By 1975, capacity ratios changed to 82 percent float, 16 percent sheet and 2 percent plate.

Fourco was one of the last flat glass manufacturers to make the switchover to float. In 1975, Fourco still had only sheet glass capacity. Until May 1976, Fourco operated only sheet glass fa-

cilities, two in Clarksburg, W. Va. (the Rolland Division and the Adamston Division), and one in Ft. Smith, Ark. (the Harding Division). In May 1976, Fourco began producing float glass at a plant in Jerry Run, W. Va., for processing at the Rolland Division. Subsequently, the sheet glass tank at Rolland was shut down in August 1976. The switch by Fourco to float was completed when the Harding and Adamston Divisions, which produced only sheet glass, were shut down in January 1977. Since January 1977, Fourco has produced only float glass.

The results of an OTAA survey of customers of Fourco representing 25 percent of sales in 1976 gave further evidence of the switch to float. Five customers representing 7.6 percent of Fourco sales in 1976 or 30.4 percent of the samples of sales emphasized that by 1977 either most or all of their flat glass purchases were of float. Of the firms surveyed, only one customer representing 1.1 percent of Fourco's sales in 1976, or 4.4 percent of the sales represented by the sample decreased purchases from Fourco relative to import purchases. This customer decreased purchases from both the subject firm and foreign sources while increasing purchases from other domestic manufacturers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sheet glass produced at the Fourco Glass Co., Rolland Division, Clarksburg, W. Va., did not contribute importantly to the separation of workers or to the decrease in sales or production at that division of the firm.

Signed at Washington, D.C., this 18th day of November 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-34258 Filed 11-28-77; 8:45 am]

[4910-28]

[TA-W-2086]

FOURCO GLASS CO., FT. SMITH, ARK.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2086: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 23, 1977, in response to a worker petition received on May 20, 1977, which was filed by the United Glass and Ceramic Workers Union on behalf of workers and former workers producing sheet glass at the Fourco Glass Co., Harding Division, Ft. Smith, Ark.

The notice of investigation was published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fourco Glass Co., its customers, the United Glass and Ceramic Workers Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

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

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation revealed that criterion (4) has not been met.

The evidence developed during the Departments' investigation revealed that the closure of sheet glass facilities at the Adamston, Rolland, and Harding divisions of Fourco Glass Co., is attributable to the Company's decision to replace sheet glass with more economical, higher quality float glass. This is consistent with the switch within the flat glass industry from sheet glass to float glass.

In recent years, technological improvements in the production of float glass have enabled manufacturers to produce float glass in thicknesses comparable to single strength and double strength window glass. Subsequent to high initial capital investment, lower unit costs are realized because of the capital intensive nature of the production process. This along with the superior quality of float glass has resulted in the shift from sheet glass to float glass, beginning in the 1960's. This shift is reflected in aggregate production and consumption data for the two types of glass. U.S. production of sheet glass declined in each year from 1972 to 1975. Production increased from 1975 to 1976, in part due to recovery from the 1975 recession. However, the level of sheet glass production in 1976 was less than half of the level in 1972. In contrast, U.S. production of plate and float glass increased in each year from 1972 to 1976, with the exception of 1974, when production declined less than 5 percent. In 1976, U.S. production of plate and float glass was 88 percent higher than the level in 1972.

Apparent U.S. consumption of sheet glass declined in every year from 1972 to 1975. Despite an increase in apparent consumption of sheet glass from 1975 to 1976, the level of sheet glass consumption in 1976 was only 44 percent of the consumption level in 1972. Apparent U.S. consumption of plate and float glass increased in each year from 1972 to 1976, except for 1974 when it declined 6 percent from 1973. In 1976, apparent U.S. consumption of plate and float glass was 76 percent higher than the level of consumption in 1972.

The switch to float glass is further evidenced in data on the number of domestic producers with sheet glass facilities versus the number of domestic producers with float glass lines and in a breakdown of industry wide flat glass capacity. In 1970, sheet glass was produced by 5 firms at 14 establishments. In 1976, sheet glass was produced at 7 establishments by 4 firms. All the sheet glass facilities currently operating within the United States are owned by firms which have made large capital investments in the float glass process. These firms are gradually dismantling sheet glass operations as new float glass facilities are fully developed and operational. By the end of 1977, it is expected that only 3 firms will produce sheet glass at a total of three establishments. In contrast, float glass is produced domestically in about 25 production facilities in 1977.

Similarly, of total flat glass manufacturing capacity in 1972, 58 percent was available for the production of float, 33 percent for sheet and 9 percent for plate. By 1975, capacity ratios changed to 82 percent float, 16 percent sheet and 2 percent plate.

Fourco was one of the last flat glass manufacturers to make the switchover to float. In 1975, Fourco still had only sheet glass capacity. Until May 1976, Fourco operated only sheet glass facilities, two in Clarksburg, W. Va. (the Rolland Division and the Adamston Division), and one in Ft. Smith, Ark. (the Harding Division). In May 1976, Fourco began producing float glass at a plant in Jerry Run, W. Va., for processing at the Rolland Division. Subsequently, the sheet glass tank at Rolland was shut down in August 1976. The switch by Fourco to float was

completed when the Harding and Adamston Divisions, which produced only sheet glass, were shut down in January 1977. Since January 1977, Fourco has produced only float glass.

The results of an OTAA survey of customers of Fourco representing 25 percent of sales in 1976 gave further evidence of the switch to float. Five customers representing 7.6 percent of Fourco sales in 1976 or 30.4 percent of the samples of sales emphasized that by 1977 either most or all of their flat glass purchases were of float. Of the firms surveyed, only one customer representing 1.1 percent of Fourco's sales in 1976, or 4.4 percent of the sales represented by the sample decreased purchases from Fourco relative to import purchases. This customer decreased purchases from both the subject firm and foreign sources while increasing purchases from other domestic manufacturers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sheet glass produced at the Fourco Glass Co., Harding Division, Ft. Smith, Ark., did not contribute importantly to the separation of workers or to the decrease in sales or production at that division of the firm.

Signed at Washington, D.C., this 18th day of November 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-34259 Filed 11-28-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO.

Availability of Safety Evaluation Report for Arkansas Nuclear One, Unit 2

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its safety evaluation report on the proposed operation of Arkansas Nuclear One, Unit 2, to be located in Pope County, Ark. Notice of receipt of Arkansas Power & Light Co.'s application to operate the Arkansas Nuclear One, Unit 2 plant was published in the FEDERAL REGISTER on April 24, 1974 (39 FR 14371).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Arkansas Polytechnic College, Russellville, Ark. 72801, for inspection and copying. The report Document No. NUREG-0308 can also be purchased, at current rates, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 22d day of November 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 77-34182 Filed 11-28-77; 8:45 am]

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government organization, siting, design, operation, and quality assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA working group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA senior advisory group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states. The senior advisory group then considers the member state comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-QA4, "Quality Assurance for Site Construction of Nuclear Power Plants," has been developed. An IAEA working group, consisting of Mr. C. Carrier of France, Mr. J. S. Cordell of the United Kingdom, Mr. J. Deckers of the Federal Republic of Germany, Mr. K. Loosemore of the United Kingdom, and Mr. A. W. Crevasse (Tennessee Valley Authority) of the United States of America developed this draft from an IAEA collation during a meeting on October 24-November 4, 1977, and we are soliciting public comment on it. Comments on this draft received by January 13, 1978, will be useful to the U.S. representatives to the Technical Review Committee and senior advisory group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Md., this 14th day of November 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 77-34183 Filed 11-28-77; 8:45 am]

[7590-01]

[Docket No. STN 50-437]

OFFSHORE POWER SYSTEMS (FLOATING NUCLEAR POWER PLANTS)

Reconstitution of Board

Dr. John R. Lyman was a member of the Atomic Safety and Licensing Board for the above proceeding. Dr. Lyman is deceased. Dr. David R. Schink, whose address is Department of Oceanography, Texas A & M University, College Station, Tex. 77840, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with section 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 21st day of November 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 77-34184 Filed 11-28-77; 8:45 am]

[7590-01]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. DPR-40 issued to Omaha Public Power District which revised technical specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebr. The amendment is effective as of its date of issuance.

The amendment will (1) make changes in the wording of selected

technical specifications to bring them into agreement with the requirements stated in the combustion engineering standard technical specifications (CESTS) and (2) modify the technical specifications based on an acceptable emergency core cooling system evaluation model to conform to section 50.46 of 10 CFR Part 50.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of proposed issuance of amendment to facility operating license in connection with this action was published in the FEDERAL REGISTER on October 13, 1977 (42 FR 55150). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 25, 1977, and August 9, 1977, as supplemented by letters dated August 31, October 13, and October 26, 1977, (2) Amendment No. 32 to License No. DPR-40, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 21st day of November 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 77-34185 Filed 11-28-77; 8:45 am]

[7590-01]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-40 issued to Omaha Public Power District which revised technical specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebr. The amendment is effective as of its date of issuance.

The amendment will delete hydraulic shock suppressor (snubber) RCS-14A from operability requirements. The request was made because of the inaccessibility of the snubber.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that purusant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appaisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 8, 1977, (2) Amendment No. 33 to License No. DPR-40, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 21st day of November 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 77-34186 Filed 11-28-77; 8:45 am]

[7590-01]

[Docket Nos. STN 50-477 and STN 50-478]

PUBLIC SERVICE ELECTRIC & GAS CO. (ATLANTIC NUCLEAR GENERATING STATION, UNITS 1 AND 2)

Reconstitution of Board

Dr. John R. Lyman was a member of the Atomic Safety and Licensing Board for the above proceeding. Dr. Lyman is deceased. Dr. David R. Schink, whose address is Department of Oceanography, Texas A & M University, College Station, Tex. 77840, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with section 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 21st day of November 1977.

JAMES R. YORE,
Chairman, Atomic Safety, and Licensing Board Panel.

[FR Doc. 77-34188 Filed 11-28-77; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 11, "Code Case Acceptability—ASME Section III Design and Fabrication," and Regulatory Guide 1.85, Revision 11, "Code Case Acceptability—ASME Section III Materials," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable code cases and to reflect public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public

Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced), or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 21st day of November 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 77-34191 Filed 11-28-77; 8:45 am]

[7590-01]

TASK ACTION PLANS

Approved Category A Tasks

This document contains listings of generic technical activities as identified and placed in priority categories by the Office of Nuclear Reactor Regulation (NRR). In addition, it contains definitions of Priority Categories A, B, C, and D and copies of thirty one approved Task Action Plans for Category A activities. This material was developed within the context of NRR's Generic Technical Activities Program. As part of this program the Assignment of identified issues to priority categories and the approval of Task Action Plans were made by NRR's Technical Activities Steering Committee, chaired by the Deputy Director, NRR.

Single copies of the Task Action Plans are available to the extent of initial supply from the Distribution Services Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Additional copies of this document and future updates, including newly approved Task Action Plans and Task Action Plan revisions, will be available for sale on a depository account basis. Information regarding where to establish this account will be provided in a future FEDERAL REGISTER notice.

Dated at Bethesda, Md., this 22d day of November, 1977.

For the U.S. Nuclear Regulatory Commission.

DENNIS M. CRUTCHFIELD,
Section Leader, Technical Support Section, Program Support Branch, Office of Nuclear Reactor Regulation.

[FR Doc. 77-34192 Filed 11-28-77; 8:45 am]

[7590-01]

[Docket Nos. 50-259 and 50-260]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission), has issued Amendment Nos. 34 and 31 to Facility Operating License Nos. DPR-33 and DPR-52 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit Nos. 1 and 2 (the facility), located in Limestone County, Ala. The amendments are effective as of the date of issuance.

The amendments simply reiterate the Technical Specifications contained in Appendices A and B of Licenses No. DPR-33 and DPR-52 in their entirety as separate rather than common documents for each of the two units. Previously there was a single, common set of Appendices A and B applicable to both units. These amendments make no changes in any requirements or limitations.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated June 8, 1977, (2) Amendment Nos. 34 and 31 to License Nos. DPR-33 and DPR-52, and (3) the Commission's letter to the licensee dated November 4, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of November 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 77-34189 Filed 11-28-77; 8:45 am]

[7590-01]

[Docket No. 50-576; License No. XR-122]

WESTINGHOUSE ELECTRIC CORP.

Issuance of Facility Export License

Please take notice that no request for a hearing or a petition for leave to intervene having been filed following publication of notice of proposed action in the FEDERAL REGISTER on January 24, 1977 (42 FR 15), and the Nuclear Regulatory Commission having found that:

(a) The application filed by Westinghouse Electric Corp., Docket No. 50-576, complies with the requirements of the Atomic Energy Act, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations,

the Commission has issued License No. XR-122 to Westinghouse Electrtic Corp., Pittsburgh, Pa., authorizing the export of a power reactor with a thermal power level of 2,785 megawatts to Association Nuclear Vandellow, Barcelona, Spain.

The export of the reactor to Spain is within the purview of the Agreement for Cooperation Between the Government of the United States of America and the Government of Spain.

Dated at Bethesda, Md., this 17th day of November 1977.

For the Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 77-34190 Filed 11-28-77; 8:45 am]

[3110-01]

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 November 18, 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 title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, 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.

The symbol (x) identifies proposals which appear to raise no significant issues, and 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.

NEW FORMS

DEPARTMENT OF ENERGY

Retail Motor Fuels Services Station Survey, P-336-M-O, Monthly, Selected Service Stations, C. Louis Kincannon, 395-3211.

GENERAL SERVICES ADMINISTRATION

Instructions for Artist Submission, Single-Time, Artists, Lowry, R. L., 395-3772.

The U.S. Government Certificate of Release of a Motor Vehicle, SF-97-97A, on occasion, Government Agencies, Lowry, R. L., 395-3772.

U.S. CIVIL SERVICE COMMISSION

Survey for the Collection of Racial and Ethnic Data of Persons Applying for Federal Employment, CSC-1289, on occasion, Selected Applicants for Federal Employment, Marsha Traynham, 395-3773.

Personnel Research Questionnaire, CSC-1310, on occasion, Selected Applicants for Federal Employment, Marsha Traynham, 395-3773.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service Marketing Channel Survey, single-time, Sample of Farmers, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Bureau of Census, General Revenue Sharing Survey (New York County Clerk Fees), RS-8-L7, annually, County Clerks, Ellett, C. A., 395-6132.

Economic Development Administration, LPW Project Performance Report, quarterly, State and Local Units of Government, Budget Review Division, 395-4775.

DEPARTMENT OF DEFENSE

Departmental and Other Government Industry Reference Data Edit Review (Girder), on occasion, Manufacturers from whom services/agencies procure items, National Security Division, Office of Federal Procurement Policy 395-4734.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary, Basic Questionnaire Study of Family Economics, CS-16-77, single-time, Heads of households in Michigan longitudinal study, Strasser, A., Caywood, D.P. 395-6132.

Center for Disease Control, Cross Sectional Study of Workers Exposed to Fibrous Minerals, single-time, Industrial Workers, Richard Eisinger 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary, Survey of Citizen Attitudes on Urban Life, single-time, Adult Public, Caywood, D.P., Office of Federal Statistical Policy and Standard 395-3443.

Federal Insurance Administration, Survey Questionnaire on Insurance Availability and Affordability, single-time State Insurance Depts., Housing, Veterans and Labor Division 395-3532.

Policy Development and Research, Code Administration Professional Development Survey, single-time, Individuals familiar with code administration education, Caywood, D.P., Ellett, C.A. 395-3443.

REVISIONS

DEPARTMENT OF STATE (EXCL. AID AND ACTION)

Application for renewal, amendment, extension of Passport, FS-299, on occasion, oversea Passport Applicants, Warren Topelius, 395-6132.

Application for Passport or Registration, FS-176, on occasion, oversea Passport Applicants, Warren Topelius, 395-6132.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Monthly Report of the Child Care Food Program and Summer Food Service Program for Children, FNS-44, monthly State Agencies, Ellett, C.A. 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, 1977 Health Interview Survey Questionnaire, other (see SF-83), sample households, Richard Eisinger, Office of Federal Statistical Policy and Standard, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, request for financial assistance, FHA2556SFA, on occasion, households in older declining urban areas, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF LABOR

Employment and Training Administration, continuous wage and benefit history (CWBH) Data, on occasion, Unemployment Insurance Claimants, Strasser, A., Office of Federal Statistical Policy and Standard, 395-6132.

EXTENSIONS

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Defense Materials System Form for Statement of Requirements for Class A Products, DMS-6, on occasion, Government Contractors, C. Louis Kincannon, 395-3211.

DEPARTMENT OF DEFENSE

Domestic and International Business Administration, request for special priorities assistance, DIB 999, other (see SF-83), Government Contractors, C. Louis Kincannon, 395-3211.

Departmental and other Contractor Cost Data Reporting (CCDR), quarterly, Defense Contractors, Office of Federal Procurement Policy, 395-3436.

Department of the Navy, inquiry, School of Nursing (evaluation), 6550/6, on occasion, Deans, Schools of Nursing, Marsha Traynham, 395-3773.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Operating Subsidy Monthly Billing Report, HUD-9816, monthly, Managers of section 236 Housing Projects, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF LABOR

Employment Standards Administration, Monthly Employment Utilization Report, SF-257, monthly, Construction Contractors, Strasser, A., 395-6132.

Employment and Training Administration, Apple Harvest Plan, ETA-7-158, annually, Growers who anticipate a need for temporary agricultural workers, Strasser, A., 395-6132.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 77-34178 Filed 11-28-77; 8:45, am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces that following meeting:

NAME: Intergovernmental Science, Engineering, and Technology Advisory Panel Steering Committee.

DATE AND TIME: December 19, 1977, 2:30 p.m. to 4:30 p.m.

PLACE: Room 3104, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C.

TYPE OF MEETING: Open.

CONTACT PERSON: Mr. Louis Blair, Executive Secretary, ISETAP, Office of Science and Technology Policy, Executive Office of the President, 202-395-4596. Anyone who plans to attend should contact Mr. Blair by December 16, 1977.

PURPOSE OF THE PANEL: The Intergovernmental Science, Engineering, and Technology Advisory Panel was established on November 4, 1976. The Panel is to identify State, regional, and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings. The Steering Committee is to review the progress of the Task Forces and to provide guidance to the Panel on future directions, and to make sure that Panel findings are useful to Federal Officials.

MINUTES OF THE MEETING: Summary minutes of the meeting will be available from Mr. Blair.

AGENDA

Activity Reports from Task Forces: Presentation and discussion of Task Force work plans for the next 12 months. Reports by:

Energy & Steering Committee (Governor Busbee).
Human Resources Task Force (Representative Jensen).
Natural Resources Task Force (Governor Lamm).
Transportation, Commerce, and Community Dev. (Mayor Gibson and Mr. Francois).
Science and Technology Transfer Task Force (Mr. Tedesco).

Discussion of future direction for the Panel.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

NOVEMBER 21, 1977.

[FR Doc. 77-34161 Filed 11-28-77; 8:45 am]

[7555-02]

INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Intergovernmental Science, Engineering, and Technology Advisory Panel, Science and Technology Transfer Task Force.

PLACE: room 3104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C.

DATE: Monday, December 19, 1977, 9:30 a.m. to 11:30 a.m.; Tuesday, December 20, 1977, 9:15 a.m. to 12:30 p.m.

CONTACT PERSON:

Mr. Robert Goldman, Office of Science and Technology Policy, Executive Office of the President; telephone 202-395-4596. Anyone who plans to attend should contact Mr. Goldman by December 16, 1977.

The purpose of the meeting is to review progress, set priorities for future Task Force efforts and to discuss programs of interest to State and local governments with the National Science Foundation (NSF).

Minutes of the meeting: Summary minutes of the meeting will be available from Mr. Goldman.

TENTATIVE AGENDA

Monday, December 19, 1977

Review status of work program and previous recommendations.

Establish priorities for remainder of the fiscal year.

Review findings of the other Task Forces.

Tuesday, December 20, 1977

Briefing by officials from the Directorate for Scientific, Technological and International Affairs, NSF

Briefing by officals from the Directorate for Research Application, NSF

Questions and comments by Task Force members and staff

Comments by Public Interest Group representatives and others.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

NOVEMBER 21, 1977.

[FR Doc. 77-34162 Filed 11-28-77; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10020; 812-4218]

AETNA FUND, INC., ET AL.

Filing of Application for an Order Pursuant to Section 17(b) of the Act Exempting Proposed Merger Transaction from the Provisions of Section 17(a) of the Act

NOVEMBER 18, 1977.

Notice is hereby given that Aetna Fund, Inc. ("Fund"), and Aetna Variable Fund, Inc., 151 Farmington Avenue, Hartford, Conn. 06156, ("Variable Fund" or the "surviving corporation") (together "applicant funds"), Aetna Variable Annuity Life Insurance Co. ("AVAR") and Aetna Financial Services, Inc. ("Aetna Financial") (collectively the "applicants"), have filed an application on November 4, 1977, and amendments thereto on November 17 and 18, 1977, pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting a proposed merger of Fund into Variable Fund from the provisions of section 17(a) of the Act. Both applicant funds are open-end diversified management investment companies registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Fund was incorporated in Maryland in 1969, and on September 30, 1977, had 10,000,000 shares of authorized capital stock ($1 par value) of which 4,789,378 shares were outstanding, and net assets of $34,914,334. Variable Fund is a Maryland corporation organized in 1974, to serve as a funding medium for certain separate accounts of AVAR. Variable Fund became operational on May 1, 1975, when it succeeded to the assets of AVAR's former variable annuity account B. On September 30, 1977, it had 60,000,000 shares of authorized capital stock ($1 par value) of which 38,725,590 shares were outstanding, and net assets of $452,842,655. Applicant funds state that they propose to enter into a plan and articles of merger ("agreement") pursuant to which Fund will be merged into Variable Fund in accordance with Maryland law; Variable Fund shall be the surviving corporation and the separate existence of Fund shall cease. According to the agreement, on the effective date of the merger (the "effective date") the outstanding shares of capital stock of Fund shall be converted into that number of full and fractional shares of Variable Fund as shall have an aggregate net asset value equal to the value of the net assets of Fund, all valued as of the close of business on the last day prior to the effective date.

Applicants submit that the agreement contains, among other provisions, several conditions precedent to the consummation of the merger, including: (1) the truth as of the effective date of the representations and warranties of the applicants contained in the agreement; (2) approval of the agreement by the requisite vote of the stockholders of Fund, at a special meeting of Fund stockholders to be held on December 13, 1977; (3) receipt by applicants of an opinion of counsel with respect to certain tax matters, including an opinion that the merger will constitute a tax-free reorganization; (4) granting by the Commission of the order requested herein and the granting of any other approvals, registrations, or exemptions under Federal or State securities laws as may be necessary; (5) approval by Variable Fund stockholders at a special meeting on December 13, 1977, of an amendment to its by-laws which would permit the purchase of its shares by persons other than AVAR.

Applicants state that Fund currently offers its shares to the public at net asset value per share plus a sales charge varying from 8.5 percent downward to 1 percent of the offering price. Aetna Financial serves as investment adviser and principal underwriter to Fund and as distributor of its shares. The Fund pays Aetna Financial as compensation for the services it renders a monthly fee at the annual rate of 0.75 percent of average daily net assets of the Fund up to $100 million, 0.6 percent on the next $100 million of net assets, and 0.4 percent on net assets in excess of $200 million. Except for certain expenses specifically assumed by Aetna Financial under its management agreement with the Fund, all expenses incurred in the operation of the Fund, including the cost of stockholder meetings, are borne by the Fund.

Applicants further state that AVAR acts as investment adviser to Variable

Fund, and that the management agreement between Variable Fund and AVAR provides that AVAR will absorb all expenses of Variable Fund (exclusive of portfolio brokerage commissions, charges related to securities lending or option transactions, and other transaction charges) except for the daily management fee at the rate of 0.25 percent annually of Variable Fund's average net assets.

Applicants state that shares of Variable Fund currently are sold only to AVAR, at net asset value without any sales charge, for allocation to certain of its separate accounts established for the purpose of funding variable annuity contracts issued by AVAR. AVAR is the record owner of all Variable Fund shares purchased for its separate accounts and votes such shares in accordance with directions received from contract owners participating thereunder. Variable Fund will hold a special meeting of its stockholders on December 13, 1977, for the purpose of approving, among other things, an amendment to its by-laws to permit the sale of Variable Fund shares to Fund stockholders (both in connection with the proposed merger transaction, and as additional purchases on a no-load basis).

Applicants state that the current board of directors of Variable Fund will serve as the directors of the surviving corporation following the proposed merger, and of the five directors of Variable Fund, one (Donald G. Conrad, president of Fund and Variable Fund) also is a director of Fund. The other four directors of Fund will not serve as directors of Variable Fund after the merger. AVAR will serve as investment adviser to the surviving corporation, in accordance with the terms of its present management agreement with Variable Fund, except with respect to the account maintenance fee described below. If approved by Variable Fund stockholders, the management agreement between AVAR and Variable will be amended to provide for an account maintenance fee of $6.50 per account per year (or 0.75 percent of the average net asset value of the account, whichever is lower), to be collected from each stockholder in payment for costs of maintaining shareholder accounts. Applicants state that such costs currently are paid by the Fund, while AVAR now bears these expenses on behalf of Variable Fund.

Applicants further state that, prior to the effective date, each applicant fund will declare and distribute to its stockholders a dividend consisting of substantially all of its undistributed net investment income, and that at the same time, Variable Fund will declare and make a capital gains distribution consisting of substantially all of its undistributed realized net taxable long-term capital gains, if it has any such gains at that time. Applicants acknowledge that such a distribution may be in contravention of rule 19b-1(a) under the Act, which generally prohibits registered investment companies from making more than one distribution of capital gains during a taxable year. Rule 19b-1(c) provides, however, that the Commission may authorize, upon request, a distribution otherwise prohibited by the rule, and applicants state that Variable Fund will obtain such an authorization prior to making any such distribution. As of December 31, 1976, Fund had a total unused capital loss carryover of $4,377,000, of which approximately $403,000, $2,637,000, and $1,377,000 would have been available—but for the merger—to offset capital gains which might be realized prior to their expiration in 1981, 1982, and 1983, respectively. During the 9 months ended September 30, 1977, the Fund realized gains of $873,410. The Fund's net unrealized losses were $4,028,325 at September 30, 1977.

As of December 31, 1976, Variable Fund had no unused capital loss carryover. During the 9 months ended September 30, 1977, Variable Fund realized gains of $19,504. Its net unrealized losses were $28,482,240 at September 30, 1977.

Applicants state that a portion of the capital loss carryover of the Fund would not be available to Variable Fund after the merger to offset capital gains according to the calculation formula provided by the Internal Revenue Code. In determining the ratio at which Fund shares will be converted into Variable Fund shares, the agreement does not provide for any adjustment for possible contingent tax benefits, such as the effect of the assimilation of both funds' capital loss carryovers. Applicants state that the boards of applicant funds specifically considered the respective tax circumstances of Fund and Variable Fund at their meetings on November 15, 1977, at which the agreement was approved, and that the Boards determined at that meeting that it would not be appropriate to apply any tax adjustment formula to the net asset value exchange contemplated by the proposed merger transaction because there can be no assurance that any capital loss carryovers can or will be utilized before they expire, and the amount of any tax impact would depend upon many different factors, including the personal tax status of individual shareholders or contractholders.

Applicants submit that the primary investment objective of each fund is long-term capital appreciation, with realization of current income as a secondary objective, that each seeks to achieve its investment objectives by investing primarily in common stocks or in securities exchangeable for common stocks of companies believed to have attractive growth characteristics, and that each may invest a portion of its assets in fixed income securities (primarily short-term debt obligations) or retain cash for defensive purposes or in anticipation of more favorable equity acquisition opportunities. Applicants further assert that neither fund makes a general practice of short-term trading, although both reserve the right to make sales and purchases of securities wherever it is deemed prudent and consistent with the fund's objective.

Applicants state that the respective investment restrictions of the applicant funds are similar in all material respects, although not identical, and the current investment objectives, policies and restrictions of Variable Fund will continue in effect after the merger. Further, Applicants state their expectation that, at the effective date, all portfolio securities of Fund will be acceptable to Variable Fund and that they will be retained by Variable Fund following the merger, subject to normal changes resulting from judgments as to the investment values of a particular security. Applicants assert that since the funds' portfolios already are essentially compatible, the merger transaction is not expected to result in significant brokerage expenses for either applicant fund. Applicants also assert that the small size of Fund in relation to Variable Fund ensures that any such brokerage expenses would have an insignificant effect on Variable Fund's net asset value.

Section 2(a)(3) of the Act, in part, defines an "affiliated person" of another person as * * * (A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by such other person; (C) any person directly or indirectly controlling, controlled by, or under common control with such other person; (D) any officer, director, partner, copartner, or employee of such other person; (E) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof * * *".

Applicant Funds state that they currently have one common director among the five members of each Board, and that the same three persons serve as president, secretary, and treasurer of both applicant funds. According to the application, both Aetna Financial (investment adviser to Fund) and AVAR (investment adviser to Variable Fund) are wholly owned sub-

sidiaries of Aetna Life & Casualty Co. ("Aetna"). In addition, Aetna and its wholly owned subsidiary, Aetna Casualty & Surety Co., together own approximately 20.3 percent of the Fund's outstanding shares, and Hartford National Bank owns 25.7 percent of the Fund's outstanding shares as independent trustee for the Aetna Life & Casualty incentive savings plan (a profitsharing plan for specified employees of Aetna and its affiliates). All of the outstanding shares of Variable Fund currently are held in separate accounts established for the purpose of funding variable annuity contracts issued by AVAR.

On the basis of the foregoing facts, applicant funds may be deemed to be "affiliated persons" of each other under section 2(a)(3) of the Act or "affiliated persons" of "affiliated persons" of each other.

SECTION 17

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as a principal, knowingly to sell to or purchase from such investment company, any security or other property.

Section 17(b) of the Act essentially provides that the Commission, upon application, shall exempt from the provisions of section 17(a) a proposed transaction if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve any overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants assert that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policies of each of the Applicants and with the general purposes of the Act. Specifically, applicants stress that shares of Variable will be exchanged for shares of Fund on the basis of their respective net asset values. Applicants estimate that the cost of the proposed merger will be approximately $25,000. Pursuant to the agreement, and in accordance with the management agreements between applicant funds and their advisers, the Fund will bear its own expenses of approximately $7,000 in connection with its special meeting of stockholders, whereas AVAR will bear the expenses of Variable Fund's special meeting of stockholders. All remaining expenses of the merger will be borne by AVAR and AEtna Financial.

Furthermore, applicants contend that Fund shareholders generally will benefit from becoming shareholders of Variable Fund because:

(1) Variable Fund's greater size permits greater diversification of its portfolio investments;

(2) Variable Fund's investment advisory fee is substantially lower than Fund's (0.25 percent as compared with a maximum of 0.75 percent), and Variable Fund's adviser pays certain operational expenses which are not absorbed by Fund's adviser. Even with the addition of the account maintenance fee described above, the merger is expected to result in an overall cost saving to most Fund shareholders.

(3) Fund shareholders will be entitled to make additional purchases of Variable fund shares without sales charge, rather than paying the sales charge of up to 8.5 percent which currently is charged on their purchases of Fund shares.

Applicants also assert that Variable Fund shareholders generally will benefit from the addition of the fund shareholders' assets to the Variable Fund asset base, which may be expected to result in achievement of greater portfolio diversification as well as economies of scale in certain transaction expenses such as brokerage. In any event, Variable Fund will not bear any expenses of the proposed merger transaction.

Notice is further given that any interested person may, not later than December 13, 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 reason 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 the applicants at the address above. Proof of such service (by affidavit or, in the 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 December 13, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's 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. 77-34229 Filed 11-28-77; 8:45 am]

[8010-01]

[Rel. No. 20262; 70-6087]

APPALACHIAN POWER CO. AND CEDAR COAL CO.

Proposed Sale and Leaseback of Coal Facilities by Coal Mining Subsidiary and Lease Guaranty by Utility in Connection Therewith

NOVEMBER 18, 1977.

Notice is hereby given that Appalachian Power Co. ("Appalachian"), 40 Franklin Road, Roanoke, Va. 24009, an electric utility subsidiary company of American Electric Power Co., Inc., a registered holding company, and Cedar Coal Co. ("Cedar"), P.O. Box 548, Cabin Creek, W. Va. 25035, a coal mining subsidiary company of appalachian, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(b) of the Act as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Cedar is engaged in the mining of coal, which it delivers and sells to Appalachian. The acquisition by Appalachian of all the capital stock of Cedar Coal was approved by the Commission (HCAR No. 18363, Apr. 3, 1974, File No. 70-5470). The coal produced by Cedar Coal has a low sulfur content that permits its burning, under current environmental regulation, at Appalachian's power plants. Cedar does not own coal properties, but Cedar holds leases on approximately 24,931 acres of land in West Virginia estimated to contain 76 million tons of recoverable coal. Cedar's current mining capacity is stated to be 2 million tons of coal per year. It is planned to expand the mining capacity of Cedar to approximately 4 million tons per year by 1979. As part of that expansion, Cedar has been authorized to borrow up to $18,000,000 to finance its White Oak preparation plant ("facility") (HCAR No. 20017, May 3, 1977, File No. 70-5954). The facility presently consists of a coal preparation plant, coal handling facilities and railroad loadout, all currently under construction. The cost of the facility is now estimated to be approximately $20,000,000.

It is now proposed that such borrowings be retired from the proceeds of a sale-leaseback transaction involving the facility. The purchaser/lessor of the facility, to be named by amend-

ment ("owner trustee"), will serve as trustee of a trust to be created by and for the benefit of Twin Trading Corp. (the "owner participant"), a wholly owned subsidiary of The Pittston Co. Certain of the rights of the owner trustee as lessor of the facility will be assigned to a trustee under an indenture and security agreement (the "indenture") pursuant to which secured notes will be issued for sale by the owner trustee to certain institutional investors (the "loan participants").

It is stated that Cedar is the lessee of the coal rights in the land (the "land") upon which the facility is being constructed and is arranging to obtain the surface rights to such land under a lease (the "ground lease") that would assure it the right to maintain the facility in place for a fixed term of years. The initial term of the ground lease would be for 30 years, after which two 5-year renewal terms would be available. Upon its completion, the facility would be sold by Cedar to the owner trustee. At the same time, the rights of Cedar as lessee under the ground lease would be assigned to the owner trustee. The purchase price to be paid by the owner trustee for the facility would be equal to Cedar's cost of constructing the facility (including all overhead and indirect costs), not, however, to exceed $22,760,000. The proceeds of the sale of the facility would be used by Cedar to repay the aforementioned interim borrowing and to reimburse Cedar for its costs and expenses in constructing the facility and carrying out the transaction.

It is further stated that simultaneously with its purchase of the facility, the owner trustee will lease the facility and sublease the land to Cedar. The facility will be leased under lease agreement (the "lease"), which will provide for an initial term of 20 years with four 5-year renewal terms to be available thereafter. The sublease of the land is to continue for a period coterminous with any renewal of the lease by Cedar after the thirtieth year of its term. In addition to its renewal options, Cedar will also have the option, under the lease, to purchase the facility at the end of the initial 20-year term or at the end of any renewal term, in either case at a price equal to the fair market sales value of the facility at the time of such purchase. If Cedar neither exercises such purchase option nor renews the lease for a period through or beyond its thirtieth year, then the owner trustee will have the option, after the expiration or termination of the lease, to continue to lease the land under the ground lease for the remainder of its initial 30-year term, *Provided*, That the owner trustee pays Cedar for rights, for the remainder of such term, to mine coal under the coal leases at the fair market value of such rights, taking into account the royalties payable by Cedar to the lessors of such coal leases and the fact that the mines served by the facility have been developed by Cedar.

It is stated that the lease will be a net lease, pursuant to which, in conjunction with an indemnity and supplemental agreement, Cedar would not only pay to the owner trustee the basic rent payable thereunder but also, as additional rent, be responsible for all maintenance, taxes (other than franchise taxes and certain taxes imposed on or measured by net income) and all other costs in connection with the operation of the facility, unless such obligations are excused or terminated pursuant to the express provisions of the lease. Under the lease, the aggregate basic semi-annual rental, payable in arrears, would be at a rate equal to 3.8867 percent of the owner trustee's purchase price of the facility if delivery takes place on or about December 15, 1977. The equivalent effective annual interest cost to the lessee would be 4.71 percent. Cedar will have the right to terminate the lease (upon appropriate payments as provided therein) at any time after the seventh anniversay of the commencement of the initial term, in the event the facility is deemed by the Board of Directors of Cedar to be economically obsolete or no longer suited for use in Cedar's business. In addition, the lease will be subject to termination by Cedar at any time (upon appropriate payments as provided therein), if said Board deems uneconomic any alterations to the facility that are necessary to comply with changes in legal requirements, or if any requisition of the facility by the Government continues for more than 1 year, or if any material part of the facility is lost or destroyed.

It is proposed that Appalachian will guarantee unconditionally all Cedar's obligations under the lease (whether of payment or performance), under the aforesaid indemnity and supplemental agreement, and under the participation agreement. The failure of such guaranty to remain in full force and effect would be made an event of default under the Lease, subject to the provisions that Appalachian would, under such circumstances, have thirty days within which to decide whether or not it wished to assume directly the obligations under the Lease and, thereafter, 120 days within which to obtain any requisite administrative or other governmental approval for such assumption.

It is further stated that the funds to be used by the owner trustee in purchasing the facility would be obtained, to the extent of 40 percent of the purchase price, from the owner participant's making of an equity investment in the beneficial ownership of the facility and, to the extent of 60 percent of the purchase price, from borrowings made by the owner trustee from the loan participants. The conditions upon which such equity investment and borrowings are to be made are specified in the participation agreement. The borrowings will be evidenced by the owner trustee's 9-percent White Oak trust secured notes (the "notes") to be issued pursuant to the indenture. The notes, which will be independent, non-recourse obligations of the owner trustee's trust estate (consisting of, among other things, the facility, the lease, the guaranty of Appalachian, and the rental and other payments due thereunder), will be secured by an assignment of certain of the owner trustee's rights under the lease, the ground lease and the guaranty of Appalachian and by the conditional assignment of the coal leases. The notes will be payable in 40 semi-annual installments, commencing 6 months after the commencement of the initial term under the lease, and would bear interest on the unpaid principal amount thereof at the rate of 9 percent per annum. They will not be subject to prepayment in whole or in part, except upon termination of the lease and under certain other circumstances.

It is stated that arrangements for the obtaining of the equity funds from the owner participant and of the borrowed funds from the loan participants were made at the request of Appalachian by respectively, Institutional Leasing, Inc., and Lehamn Brothers, Inc. The loan participants and their respective participations in the borrowings are as follows:

Loan participant	Based on $12,000,000 of notes, percentage of participation
Aetna Life Insurance Co	64.17
Equitable Life Insurance Co. of Iowa	20.83
Sun Life Assurance Co. of Canada	15.00
Total	100

If aggregate Notes are less than $12,000,000, Equitable and Sun Life participate to the extent of $2,500,000 and $1,800,000 each, and Aetna participates to the extent of the excess above $4,300,000.

Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that authorization for the guaranty by Appalachian will be sought from the State Corporation Commission of Virginia, and that authorization will also be sought for the arrangement between Appalachian and Cedar in respect of the guaranty from the Public Service Commission of West Virginia. It is further stated that no other State commission and no other Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 13, 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 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 declarants at the above-stated addresses 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. 77-34230 Filed 11-28-77; 8:45 am]

[8010-01]

BOSTON STOCK EXCHANGE

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 18, 1977.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Airco, Inc. (Delaware), Common Stock, $1 Par Value, File No. 7-5008.
Sea Containers Inc. (N.Y.), Common Stock, $0.12½ Par Value, File No. 7-5009.
Loral Corp., Common Stock, $0.25 Par Value, File No. 7-5010.
Buttes Gas & Oil Co., Common Stock, No Par Value, File No. 7-5011.
National Presto Industries, Inc., Common Stock, $1 Par Value, File No. 7-5012.

Upon receipt of a request, on or before December 4, 1977, from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34231 Filed 11-28-77; 8:45 am]

[8010-01]

[Rel. No. 10021; 812-4189]

CASH RESERVE MANAGEMENT, INC.

Filing of Application Pursuant to Section 6(c) of the Act for Exemption From the Provisions of Section 19(b) of the Act and Rule 19b-1 Thereunder

NOVEMBER 21, 1977.

Notice is hereby given that Cash Reserve Management, Inc. ("Applicant"), One Boston Place, Boston, Mass. 02108, an open-end investment company registered under the Investment Company Act of 1940 ("Act") filed an application on September 15, 1977, pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from the provisions of section 19(b) of the Act and Rule 19b-1 thereunder, to permit Applicant to distribute long-term capital gains more than once in any one taxable year. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a no-load mutual fund commonly known as a "money market fund," which was organized under the laws of the State of Maryland on October 8, 1976. Applicant filed a registration statement on Form S-5 (File 2-57466) under the Securities Act of 1933 covering the public offering of shares of its common stock. This registration statement was declared effective on December 30, 1976, and a public offering of Applicant's common stock commenced on that date. Applicant's investment objective is maximization of current income consistent with the maintenance of liquidity and a high quality portfolio of short-term (i.e., having a remaining maturity of 1 year or less) "money-market" instruments. The Applicant attempts to accomplish its objective by investing in or entering into agreements, including repurchase, reverse repurchase and loan agreements, relating to certain specified "money market" instruments. Applicant proposes to qualify as a "regulated investment company" as defined in section 851 of the Internal Revenue Code of 1954. Applicant's Investment Adviser is Morgan Guaranty Trust Co. of New York, acting through its Trust and Investment Division. Applicant's Administrator and Distributor is E. F. Hutton & Co., Inc.

Applicant follows the practice of having its custodian determine net income for dividend purposes on a daily basis. Net income of the Applicant is defined as (1) interest accrued or discount earned (including both original issue and market discount), (ii) plus or minus all realized and unrealized gains and losses on the portfolio securities of the Applicant and (iii) less the estimated expenses of the Applicant (including the fees payable to Applicant's Administrator and Investment Adviser) applicable to that dividend period. All of the Applicant's net income, as defined above, is declared and paid as dividends daily to the shareholders of record. Such dividends are distributed at least quarterly and may, at the shareholder's option, be automatically reinvested in additional full shares, at net asset value, and credited to the shareholder's account. Shareholders may receive, if they elect, periodic cash payments from the Applicant through its Automatic Redemption Procedure.

Shares of Applicant are sold on a continuing basis at the Applicant's net asset value per share, which the Applicant desires to maintain at a constant value of $1. In the event that Applicant's net asset value falls below $1 per share Applicant will attempt to restore the per share net asset value to $1 by deducting the excess of expenses and portfolio losses (both realized and unrealized) from the calculation of the amount of net income available for dividends on subsequent days. This amount would then be reflected as an increase in net asset value on such days. This described procedure would be repeated daily until Applicant's net asset value is restored to $1 per share.

The Applicant does not acquire its portfolio securities with a specific view to the realization of long-term capital gains, and would not expect to realize any substantial amount of such gains

given the nature of its permitted investments. Although the Applicant will not seek profits through short-term trading, Applicant's Investment Adviser may, on behalf of the Applicant, dispose of any portfolio security prior to its maturity if it believes such disposiltion advisable. Since net income of Applicant is defined to include both realized and unrealized gains and losses, the Applicant's net income could at times include capital gains. Applicant will, if this Application is granted, distribute currently any such capital gains.

Section 19(b) of the Act provides, in pertinent part, that it shall be unlawful in contravention of such rules, regulations or orders as the Commission may prescribe for any registered investment company to distribute long-term capital gains more frequently than once a year. Rule 19b-1(a) provides, in substance, that no registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code shall make more than one distribution of long-term capital gains in any one taxable year of such investment company. Paragraph (b) of said Rule contains a similar prohibition for a company not a "regulated investment company" but permits a unit investment trust to distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, by order upon application, 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 any rule or regulation thereunder, if and to the extent that such an 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 assert that the following are the principal purposes of Rule 19b-1: (1) To prevent shareholders from confusing distributions of interest income with distributions of capital gains; (2) to relieve investment company managers from the pressure to frequently realize such gains; (3) to mitigate improper sales practices related to the distribution of such gains; and (4) to eliminate the administrative expenses relating to quarterly or semi-annual capital gains distribution. Applicants state that the concerns that led to the Commission's promulgation of Rule 19b-1 have little application to Applicant due to the nature of its planned operations, for the reasons outlined below.

First, it is argued that there is little danger that a shareholder of the Applicant will confuse distributions of interest income with distributions of capital gains because: (a) Realizations of long-term capital gains and their distribution would be infrequent in number and very limited in dollar amount; (b) Applicant's shareholders will normally be sophisticated investors; and (c) Applicant will undertake to clearly delineate the nature of its distributions. Second, Applicant contends that the very nature of the Applicant as a means for investing in money market securities with the objective of "maximinzation of current income consistent with the maintenance of liquidity and a high quality portfolio of short-term 'money market' instruments" provides assurance that investors will not seek to put pressure on Applicant's investment adviser to realize capital gains on a frequent basis. Third, because Applicant's investment objective is not likely to result in the production of capital gains it is argued that sales of Applicant's shares will not be sold by emphasizing the increased earnings achieved through the realization of long-term capital gains. Last, since daily computations of net income and declarations of dividends will be undertaken by Applicant, there will be no increase in administrative expenses resulting from distribution of capital gains more frequently than once in 12 months.

Accordingly, Applicant submits that granting of the requested order pursuant to section 6(c) of the Act, exempting it from the provisions of section 19(b) and Rule 19b-1 thereunder to the extent and for the reasons stated herein, is 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.

Notice is further given that any interested person may, not later than December 15, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, 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 the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's 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. 77-34232 Filed 11-28-77; 8:45 am]

[8010-01]

[File No. 500-1]

MIDAS INTERNATIONAL, INC.

Suspension of Trading

NOVEMBER 17, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Midas International, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. (e.d.t.) on November 17, 1977, and terminating at midnight (e.s.t.) on November 26, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-34233 Filed 11-28-77;8:45 am]

[8010-01]

[Release No. 20261; 70-5831]

NATIONAL FUEL GAS CO. AND NATIONAL FUEL GAS CORP.

Proposal To Extend Maturity Date of Intrasystem Loan

NOVEMBER 18, 1977.

Notice is hereby given that National Fuel Gas Co., 30 Rockfeller Plaza, New York, N.Y. 10020, a registered holding company, and its wholly owned subsidiary, National Fuel Gas Supply Corp. ("Supply"), 308 Seneca St., Oil City, Pa. 16301, have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to

the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated May 10, 1976 (HCAR No. 19521), the Commission authorized National to issue and sell its preferred stock and to loan the proceeds of the sale to certain subsidiaries in exchange for notes of those subsidiaries. Pursuant to that authorization National loaned $25,000,000 of the proceeds of its preferred stock sale to National Fuel Gas Distribution Corp., and $5,000,000 to Supply in exchange for Supply's 9.6% note maturing December 31, 1977. The interest rate of the note is equal to the effective cost of money incurred by National in the sale of its preferred stock, rounded to the next highest multiple of ⅒ of 1%. Supply has applied the proceeds of the sale of such note to develop existing wells to serve as gas storage facilities. Upon receipt of Federal Energy Regulatory Commission ("FERC"), authorization for certain related transactions, these facilities will be transferred to National Gas Storage Corp. ("Storage"), a corporation presently being organized as a subsidiary of National, and Storage will issue certain of its securities to National and Supply.

When this application-declaration was filed with this Commission it was contemplated that all necessary authorizations involving Storage, including that of FERC, would be received by December 31, 1977. National has now been informed that it is unlikely that the requisite FERC approval will be received before April 1978. Authorization is now requested to extend the maturity of Supply's $5,000,000 note to National to December 31, 1978. The interest rate and other terms of the note will remain the same. If the FERC authorization is received prior to December 31, 1978, the note will be prepaid upon the completion of certain transactions involving Storage.

It is stated that no special or separable fees or expenses will be incurred in connection with the proposed transaction. It is further 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 December 13, 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 the filing 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 applicants-declarants 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 application-declaration, as amended or as it may be further 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. 77-34234 Filed 11-28-77; 8:45 am]

[8010-01]

[Rel. No. 10017; 812-4188]

NUVEEN MUNICIPAL BOND FUND, INC.

Filing of Application Pursuant to Section 10(f) of the Act Exempting Certain Transactions From the Provisions of Section 10(f)

NOVEMBER 18,1977.

Notice is hereby given that Nuveen Municipal Bond Fund, Inc., 200 Park Avenue, New York, N.Y. 10017, a Maryland corporation (the "Fund"), filed an application on September 19, 1977, pursuant to Section 10(f) of the Investment Company Act of 1940, as amended (the "Act"), for an order of the Commission exempting certain transactions of the Fund from the provisions of Section 10(f) of the Act so as to permit the Fund to purchase Municipal Bonds (as hereinafter defined), in public offerings in which an affiliate of the Fund's investment adviser participates as a principal underwriter, subject to certain conditions specified in the application and as set forth below. All interested persons are referred to the application which is on file with the Commission for a statement of the representations made therein, which are summarized below.

The Fund is a diversified open-end, management investment company and is registered under the Act. It filed a registration statement on Form N-8B-1 pursuant to Section 8(b) of the Act on October 13, 1976, and has commenced distribution of shares of common stock of the Fund pursuant to a registration statement under the Securities Act of 1933 which was declared effective on November 29, 1976. The Fund's investment objective is to provide shareholders, through investment in a diversified and professionally managed portfolio of Municipal Bonds, as high a level of current income exempt from Federal income taxation as is consistent, in the view of the Fund's management, with preservation of capital. In seeking this objective, the Fund proposes to invest at least 80% of its assets in a diversified portfolio of obligations issued by or on behalf of states, territories and possessions of the United States and the District of Columbia and their political subdivisions, agencies and instrumentalities, the interest of which is exempt from Federal income taxation (such obligations being referred to hereinafter as "Municipal Bonds"). The Fund intends to qualify under Subchapter M of the Internal Revenue Code of 1954, as amended for tax treatment as a regulated investment company and to satisfy conditions which will enable it to designate distributions from the interest income generated by its investments in Municipal Bonds as "Exempt Interest Dividends." However, the above percentage may be temporarily reduced from time to time for defensive purposes under adverse market conditions. The Fund also anticipates that from time to time it may invest a portion of its assets (not to exceed 20% of the Fund's assets, except when made for defensive purposes), in temporary investments, the income from which may be subject to federal income taxation.

The Fund and Nuveen Advisory Corp. ("Adviser"), are parties to an investment advisory agreement pursuant to which the Adviser provides certain specified management services to the Fund in return for a set fee. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940. All of the Adviser's shares of capital stock are owned by John Nuveen & Co., Inc. ("Nuveen"), and all of the Adviser's directors and officers are also officers of Nuveen. Accordingly, the Adviser and Nuveen are each an affiliated person of each other as that term is defined in Section 2(a)(3) of the Act.

Nuveen conducts an investment banking and brokerage business, specializing in the underwriting and distribution of tax-exempt securities, including the underwriting and distribution of obligations of the United States government and its agencies. Through its Municipal Bond Department Nuveen participates as an underwriter in a substantial number of public offerings of Municipal Bonds and also acts as a broker and dealer in Municipal Bonds. Nuveen also acts as the principal underwriter of shares of the Fund's common stock. The application states that the Adviser and

Nuveen operate as separate entities, each having its own employees and maintaining separate offices, books, and records.

Three of the seven members of the Fund's board of directors are affiliated persons of Nuveen, and therefore "interested persons" of the Fund. The other four directors are not "interested persons" of the Fund.

Section 10(f) of the Act, in pertinent part, provides that no registered investment company shall knowingly purchase or acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an officer, director, investment adviser or employee of such investment company, or is a person of which any such officer, director, investment adviser or employee is an affiliated person. That section further provides that the Commission, by rules or regulations upon its own motion or by order upon application, may exempt any transaction or classes of transactions from the restrictions contained therein to the extent such exemption is consistent with the protection of investors.

Pursuant to the rule-making authority granted by section 10(f), the Commission adopted Rule 10f-3 in 1958. The Rule provides that a purchase of securities by a registered investment company prohibited by section 10(f) of the Act shall be exempt from the provisions of such Section if certain conditions are satisfied. The Fund notes that Rule 10f-3 was designed for underwritten offerings of corporate equity and debt securities, whereas it intends to invest primarily in Municipal Bonds. The Fund asserts that underwritten offerings of Municipal Bonds are conducted under different terms and conditions than corporate underwritings and for several reasons do not fit within the framework of Rule 10f-3. For example, there is no registration requirement for Municipal Bonds under the Securities Act of 1933 as required by Section (a)(1) of Rule 10f-3. Therefore, the Fund will be precluded from being able to take advantage of the exemption afforded by the Rule and will be unable to purchase Municipal Bonds in public offerings in which Nuveen or any of its affiliates participates as a "principal underwriter", as such term is defined in section 2(a)(29) of the Act.

It is the Fund's contention, as stated in the application, that due to the special nature of the Municipal Bond market and its emphasis on distributions through underwriting syndicates, the Fund must have access to the primary underwriting market in order to obtain best price and execution in the accumulation of portfolio securities. Because of the high degree of participation of Nuveen in these underwritings, the Fund believes that the prohibitions of Section 10(f) would, unless modified, prejudice the Fund by precluding access to a significant portion of the Municipal Bond market. The Fund states that although there may be a large secondary market in Municipal Bonds, this secondary market lacks the depth and liquidity of the corporate bond or money market and is more susceptible to sharp price fluctuations.

In order for the Fund to participate in public offerings of Municipal Bonds in which Nuveen or any of its affiliates is a "principal underwriter", the Fund seeks an order of the Commission exempting its proposed future purchase of Municipal Bonds from Section 10(f) on the basis of the terms set forth below, which are discussed in the application. These terms are based upon Rule 10f-3 appropriately revised for the purposes of the requested exemptive order to reflect the special nature of the Municipal Bond market.

Terms Of The Proposed Order

The exemptive order sought by the Fund would be subject to the following conditions (paragraph references are keyed to the text of Rule 10f-3):

(a) The securities to be purchased shall be:

(1) Part of an issue of Municipal Bonds, the interest on which is exempt from Federal income tax, which is being offered to the public;

(2) Purchased at not more than the public offering price prior to the end of the first full business day after the first date on which the issue is offered to the public;

(3) Offered pursuant to an underwriting agreement under which the underwriters are committed to purchase all of the Municipal Bonds being offered, if the underwriters purchase any thereof;

(4) Acquired pursuant to an order (which may be conditional) placed by the Fund with an underwriter prior to the first date on which the issue is offered to the public;

(5) Purchased in an unsolicited transaction originating with the Fund or its investment adviser; and

(6) Purchased in transactions for which records are maintained setting forth the reasons for the purchase and for the sale, if any, of any portfolio securities related to the transaction, which records shall be available for inspection by the Commission.

(b) The gross commmission, spread or profit to the principal underwriters shall not exceed 2.5 percent of the principal amount of the issue.

(c) On the date of purchase the issue shall have received an investment grade rating from Standard & Poor's Corporate or Moody's Investors Service, Inc.; provided, however, if the issuer of the securities to be purchased, or the entity supplying the revenues from which the issue is to be paid, shall have been in continuous operation for less than three years, including the operations of any predecessor, then on the date of purchase the issue shall have received a rating of "A" or better from Standard & Poor's Corporation or Moody's Investors Service, Inc.

(d) The principal amount of Municipal Bonds to be purchased by the Fund or by the Fund and any other investment companies having the same investment adviser, shall not exceed 3 percent of the principal amount of the issue being underwritten or $500,000 in principal amount, whichever is greater, but in no event greater than 10% of the principal amount of the issue.

(e) The consideration to be paid by the Fund in purchasing the Municipal Bonds being offered shall not exceed 3 percent of the total assets of the Fund; provided, that if such consideration shall exceed $1,000,000, it shall not exceed 2 percent of the Funds total assets.

(f) The exemptive order shall not be construed to permit transactions with any affiliated person or principal underwriter of the Fund or any affiliated person thereof (including purchases from syndicate managers designated as group sales or otherwise allocated to the account of such affiliated person or principal underwriter) which would otherwise be prohibited by Section 17 of the Investment Company Act of 1940; the Fund having represented that it will keep its noninterested directors completely informed, and fully aware, of the available alternatives with respect to recapture of the costs of portfolio transactions and having undertaken to take such steps as may be necessary to seek to implement any such recapture, including the filing of applications for exemptions under the Investment Company Act of 1940, if the non-interested directors should determine that recapture is in the best interests of the Fund or if otherwise required by developments in the law.

(g) The purchase of the securities being offered shall have been authorized or approved by a resolution of the board of directors of the Fund, or of a committee composed of at least three members of such board (a majority of which must be noninterested persons of the Fund), which resolution shall state that in the judgment of the board or committee, the purchase of securities proposed will meet all the requirements of paragraphs (a) through (f) of this exemptive order and which authorization or approval shall have been supported by the vote (by a meeting or by written consent given without a meeting) of not less than a majority of the members of the board of directors or of the committee who were not interested persons of the Fund.

(h) The Fund shall set forth all transactions conducted pursuant to the exemptive order in its quarterly reports filed with the Securities and Exchange Commission on Form N-1Q.

In addition, information as to such transactions shall be contained in the notes to the Fund's published financial statements.

(i) The officers and directors of the Fund and its investment adviser assume the burden of establishing that each transaction made pursuant to the exemptive order is consistent with the purpose of such order to prevent the selection of the Fund's portfolio securities in the interest of such affiliated persons or in the interest of underwriters, brokers or dealers, rather than in the interest of the Fund's security holders.

The Fund states that, as set forth in Investment Company Act Release No. 2797 (December 2, 1958), the conditions to the exemption from section 10(f) contained in Rule 10f-3 are designed to permit purchases without an exemptive order where the circumstances are such as to make it unlikely that the purchase will be inconsistent with the protection of investors. The Fund contends in its application that the exemption sought from the prohibitions of Section 10(f) is consistent with the protection of investors. The Fund further contends that the terms of the exemption sought in the application attempt to incorporate the substantive provisions of Rule 10f-3 into a framework taking into account the realities of Municipal Bond underwritings so as to permit the effective use of the exemption and at the same time making it unlikely that a purchase thereunder will be inconsistent with the protection of investors.

Notice is further given, that any interested person may, not later than December 13, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application 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 the Fund at the address 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 Commission's 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. 77-34235 Filed 11-28-77; 8:45 am]

[8010-01]

[Release No. 14181; SR-PSE-77-29]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

NOVEMBER 17, 1977.

On September 16, 1977, the Pacific Stock Exchange Incorporated, 301 Pine Street, San Francisco, Calif. 94104, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Act Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change would eliminate the requirement that member organizations qualified to conduct a nonmember customer options business renew on an annual basis written customer authorizations to maintain a discretionary account.

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. 13993, (September 26, 1977)) and by publication in the FEDERAL REGISTER (42 F.R. 54039 (October 4, 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 September 16, 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. 77-34236 Filed 11-28-77; 8:45 am]

[8010-01]

[Release No. 34-14178; File No. SR-Amex-77-25]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rules Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 3, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE

The proposed amendments to Amex Rules 421 and 924 are intended to streamline and simplify member firm procedures with respect to the supervision of discretionary account. The text of the proposed rule changes is attached as Exhibit A.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

Amex Rule 421 regulates discretionary accounts carried by member organizations to provide proper supervision. However, certain of its procedural provisions have become outdated and unnecessary. The Amex therefore proposes that these provisions be deleted and that certain other supervisory requirements be added, in order to streamline and simplify the rule. An indicated in more detail below, the proposed amendments will give the Exchange and member organizations greater flexibility to develop effective internal surveillance systems that will provide appropriate investor protection and be best suited to the needs and resources of particular member organizations.

The following provisions are proposed to be deleted from Amex Rule 421:

REQUIREMENT OF ANNUAL VERIFICATION OF DISCRETIONARY AUTHORITY

The requirement of annual verification of discretionary authority poses an operational and paperwork problem for member organizations. In addition, a member firm's inability to exercise discretion, if it is unable to obtain a timely renewal of discrtionary authority due to the customer's absence, can cause investor losses and result in unnecessary customer controversies. Moreover, power of attorney forms generally contain a provision stating that the discretionary authority is valid until terminated, so customers are aware that they must take affirmative action to terminate the authority. The Amex therefore proposes to eliminate the requirement of annual verification of discretionary authority from Rule 421.

REQUIREMENT OF AUTHORIZATION OF SPOUSE

Rule 421 also requires that member organizations obtain written authorization before accepting orders from

zation before accepting orders from one spouse for the account of the other spouse. However, there is a general requirement in another provision of Rule 421 that an order may not be accepted from a person other than the customer without first obtaining written authorization from the customer. A specific provision only covering spouses is redundant and it is therefore proposed that it be eliminated.

REQUIREMENT OF APPROVAL OF DISCRETIONARY ORDERS

Member organizations have adopted a variety of procedures to detect "churning" in discretionary accounts, which is perhaps the principal abuse that Rule 421 is designed to prevent. Many firms assign a special code designation to discretionary accounts, which enables the firm's computer to isolate discretionary accounts for monitoring purposes. Such supervisory procedures are more efficient than the approval of a discretionary order ticket on the day of entry as required by Rule 421, so it would appear unnecessary to require member organizations to follow a procedure which is burdensome and less effective. Moreover, without this requirement member organizations will have greater flexibility to develop effective internal surveillance systems that are best suited to their own needs and resources. Exchange field examinations will cover the member firm's written statement of supervisory procedures, and should reflect whether the firm's system is satisfactory. In connection with such reviews, smaller member firms that do not have advanced monitoring capabilities will be required to retain their present order approval procedures as part of their internal surveillance system. The Amex therefore proposes to amend Rule 421 to delete the general requirement for initialing and approving orders on the day of entry.

The Amex is proposing only a technical amendment to Rule 924, specifically governing discretionary option accounts, the effect of which is to retain this requirement for options. While the Amex believes that option and other accounts could well be treated identically, retention of the initialing requirement for options accounts seems appropriate while the Commission is conducting its general review of standardized options trading.

ADDITIONAL SUPERVISORY REQUIREMENTS

The Exchange also proposes to add certain requirements to Rule 421 to augment the effectiveness of discretionary account supervision by member organizations.

First, it is proposed that registered personnel, after obtaining the required written discretionary authority, also be required to notify their firm of the discretionary authority and obtain approval from a supervisor. While approval for the opening of any account, discretionary or nondiscretionary, is already required under Amex Rule 411 (with the approval encompassing the account's discretionary character), there may be times when a customer grants discretionary authority over an account after it has been opened. Approval under this circumstance is not now expressly required. Amending Rule 421 to require firm approval of discretionary authority will fill this gap.

Second, the provision of Rule 421 which requires the frequent review of discretionary accounts would be broadened by changing the category of person qualified to conduct such a review, from "regular or allied member" to "any qualified principal or employee delegated such responsibility under Amex Rule 320". (Rule 320 relates to the supervision and control required with respect to a member's office.)

Finally, the Amex proposes to add a requirement that each member organization maintain a written statement of the specific supervisory procedures governing its discretionary accounts.

The Amex believes that the proposed amendments to Amex Rules 421 and 924 will foster cooperation and coordination with other self-regulatory organizations, facilitate transactions in securities, and protect investors and the public interest, consistent with Section 6(b)(5) of the amended Exchange Act.

No comments were solicited or received with respect to the proposed changes.

The Exchange has determined that no burden on competition will be imposed by the proposed rule changes.

On or before January 3, 1978, 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 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 on or before December 29, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 16, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

AMERICAN STOCK EXCHANGE, INC.

PROPOSED AMENDMENTS TO AMEX RULES 421 AND 924[1]

1. *Rule 421* is proposed to be amended as follows:

DISCRETION AS TO CUSTOMERS' ACCOUNTS

Rule 421. (a) No member and no partner, officer or employee of a member organization shall exercise any discretionary power in any customer's account, or accept orders for an account from a person other than the customer, without first obtaining the written authorization of the customer.

No [Where a] member or a partner, officer or employee of a member organization *shall* exercise[s] *any* discretionary power in *any* customer's account, [each discretionary order must be so designated on the order at the time of entry and must be approved and initialed on the day entered by a general partner, officer or manager of the member organization who has been delegated written authority to give such approval and who is not exercising the discretionary authority.] *without first notifying and obtaining the approval of another person delegated authority under Rule 320(c)(1) to approve the handling of such accounts. Every order entered on a discretionary basis by a member or a partner, officer or employee of a member organization must be identified as discretionary on the order at the time of entry.* In addition, all discretionary accounts shall receive frequent appropriate supervisory reviews by a [general partner or officer of the member organization] *person delegated such responsibility under Rule 320(c)(1)* who is not exercising the discretionary authority [.] *and a written statement of the supervisory procedures governing such accounts shall be maintained.*

In the event that discretionary authority with respect to a customer's account runs to an employee of another member or member organization, the carrying member organization must also obtain the prior written consent of the employer of the individual authorized to exercise such discretion.

(b) The provisions of this rule shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed.

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[1] Brackets [ ] indicate material to be deleted and italics indicate material to be added.

COMMENTARY

[.01 The exercise of discretion by a husband or wife in the account of his or her spouse shall not be permitted without first obtaining the written authorization of the spouse.]

[.02 When a discretionary power in a customer's account runs to a member, partner, officer or employee of a member organization, the member organization shall at least annually inquire of the customer in writing as to his interest in continuing the discretionary authority.]

[.03] *.01* See also Rules 411, 420, and 422.

2. *Rule 924* is proposed to be amended as follows:

DISCRETIONARY ACCOUNTS

Rule 924. (a) Authorization and Approval—No member and no partner, officer or employee of a member organization shall exercise any discretionary power with respect to trading in option contracts in a customer's account, or accept orders for option contracts for an account from a person other than the customer, except in compliance with the provisions of Rule 421 and in addition (i) the written authorization of the customer required by Rule 421 shall specifically authorize options trading in the account; (ii) the account shall have been accepted by a general partner or officer of the member organization who is a Registered Options Principal; and (iii) [the person approving all such orders with respect to Exchange options transactions in such account shall be a Registered Options Principal *each such order with respect to Exchange options transactions shall be approved and initialed on the day entered by a general partner or officer of the member organization who is a Registered Options Principal.* In the case of a branch office such discretionary orders may be approved and initialed on the day entered by the branch office manager, provided that such approval shall be confirmed within a reasonable time by a general partner or officer of the member organization who is a Registered Options Principal. The provisions of this paragraph shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of option contracts in a specified security shall be executed.

(b) Prohibited Transactions—No member and no partner, officer or employee of a member organization having discretionary power over a customer's account shall, in the exercise of such discretion, execute or cause to be executed therein any purchases or sales of option contracts which are excessive in size or frequency in view of the financial resources in such account.

(c) Record of Transactions—A record shall be made of every transaction in option contracts in respect to which a member or a partner, officer or employee of a member organization has exercised discretionary authority, clearly reflecting such fact and indicating the name of the customer, the designation and number of the option contracts, the premium and the date and time when such transaction was effected.

COMMENTARY

.01 No transactions shall be executed in a discretionary account which would result in an uncovered short position in option contracts or in the uncovering of any existing short position in option contracts unless the person for whom the account is maintained has specifically authorized, in writing, transactions of this nature and such transactions are effected with due regard to the provisions of Rule 923.

[FR Doc. 77-34237 Filed 11-28-77; 8:45 am]

[8010-01]

[Release No. 34-14191; File No. SR-MSE-77-40]

MIDWEST STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 3 of Article XL is hereby amended as follows:

Additions Italicized [Deletions Bracketed]

REPORTING OF OPTIONS POSITIONS

Rule 3 (a). Each member shall file with the Exchange a report with respect to each account in which the member has an interest, each account of a partner, officer, director, or employee of such member and each customer account, which has *an option position in excess of such number of options contracts as shall be fixed by the Exchange from time to time.* [(i) an aggregate long position or (ii) an aggregate short position or (iii) an aggregate uncovered short position, in option contracts of any class of options dealt in on the Exchange in excess of 100 option contracts. Such report shall identify the person having an interest in such account and shall identify separately the total number of option contracts of each such class comprising the long position, short position and uncovered short position, in such account.] The report [shall be in such form as may be prescribed by the Exchange and] shall be filed no later than the close of business on the next business day following the day on which the transaction or transactions requiring the filing of such report occurred. Whenever a report shall be required to be filed with respect to an account pursuant to this paragraph, the member filing the same shall file with the Exchange such additional periodic reports with respect to such account as the Exchange may from time to time prescribe.

(b) No change in text.

(c) No change in text.

* * * Interpretations and Policies:

.01 No change in text.

.02 No change in text.

.03 No change in text.

.04 [With respect to open exercise positions, see reporting requirements under Rule 4 of Article L.] *The Exchange has determined that an aggregate position of 200 option contracts for the same underlying security on the same side of the market (combining for this purpose long positions in put options with short positions in call options, and short positions in put options with long positions in call options) shall be reported pursuant to paragraph (a) of this Rule.*

EXCHANGE'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 make the reporting requirements of this rule consistent with recent changes in the position limits rule which make that rule applicable to positions on the "same side of the market". This change will also eliminate the necessity for additional changes in the text of the rule should the language of the position limits rule again be modified.

Additionally, the reporting level specified in Interpretation .04 has been based on consideration of the Exchange's experience with the past reporting level, the potential surveillance value of new reporting levels and the effect of put options trading on such reporting.

The previous Interpretation .04 referring to Rule 4 of Article L has been eliminated due to the elimination of this Rule in a previously approved rule change.

The basis for the proposed rule change is contained in those provisions of section 6(b)(5) of the Act which require that the Exchange's rules provide for the promotion of just and equitable principles of trade, and protection of investors and the public interest.

Comments have neither been solicited nor received by the Midwest Stock Exchange, Inc.

The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

On or before January 3, 1978, 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 propose 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 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street 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 on or before December 20, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 21, 1977.

[FR Doc. 77-34238 Filed 11-28-77;8:45 am]

[8010-01]

NATIONAL MARKET ADVISORY BOARD

Meeting; Change of Location

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on December 12 and, if necessary, December 13, 1977, in the Federal Room, 4th Floor, Manufacturers Hanover Trust Co., 40 Wall Street, New York, N.Y. Initial notice of this meeting was published in the FEDERAL REGISTER on October 7, 1977, at which time the location was given as Washington, D.C.

The summarized agenda for the meeting is as follows:

1. Discussion of portions of the Board's report to the Commission on the next steps to be taken to facilitate the establishment of a national market system not previously submitted to the Commission.

2. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 18, 1977.

[FR Doc. 77-34228 Filed 11-28-77; 8:45 am]

[8010-01]

[Release No. 34-14183; File No. SR-NYSE-77-26]

NEW YORK STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 7, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGES

The text of the proposed rule amendments is attached as Exhibit I-A.

PURPOSE OF PROPOSED RULE CHANGE

(a) A potential semantic ambiguity exists between the Exchange's initial margin requirements and the requirements promulgated by the Federal Reserve Board in Regulation T which suggests that, in some instances, a customer might be able to furnish less initial margin than currently required by the Federal Reserve. A qualifying amendment to the rule will remove any doubt as to the necessity of at least meeting the minimum Federal margin requirements.

(b) Exchange rules permit member organizations, with prior Exchange approval, to extend credit to the accounts of options dealers under any arrangement which is satisfactory to the concerned parties. However, the carrying broker must compute margin on the account as a customer's account and limit any margin deficiency to a percentage of its own excess net capital. The method for computing these charges to capital is based on other provisions of the margin rule which is more stringent than the method included in the SEC's Uniform Net Capital rule. Therefore, a member organization servicing options dealers' accounts must maintain more capital than a nonmember. The proposed amendments will permit member organizations to compute margin deficiencies in options dealers' accounts in accordance with the Uniform Net Capital rule, and will eliminate the requirement that approval be provided by the Exchange concerning a firm's arrangements for carrying an options dealer's account. The proposed amendments also contain guidelines for the carrying firm to help avoid excessive risks related to options accounts.

(c) The Exchange rule requiring the maintenance of daily margin records details the procedure for completion of a form to be filed with respect to customers who effect transactions requiring margin and who satisfy the margin by liquidation of the same or other commitments. The form was implemented as a means to enforce a provision of the rule prohibiting such transactions and does not apply to standard maintenance calls. The proposed amendments would delete all references to this form which has not been in use since 1946 and which is unnecessary due to other means of adequate surveillance by the Exchange and amendments to Regulation T which discourage liquidation as a means of meeting margin calls. Additionally, this regulatory procedure exceeds SEC requirements.

The requirement that daily records of initial or additional margin be maintained for at least 12 months is being eliminated as it is superseded by the SEC's recordkeeping rules.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed amendments to Rules 431(a), 431(d)(2)(I) and 432 are consistent with sections 6(b)(1), 6(b)(5) and 15(c)(3) of the Act as follows:

(i) The proposed rule changes carry out the purposes of the act by facilitating competition and fostering uniformity.

(ii) Inapplicable.

(iii) Inapplicable.

(iv) Inapplicable.

(v) The proposed rule changes will foster cooperation and coordination with the Federal Reserve Board and, thereby, facilitate transactions in securities. By eliminating the required maintenance of certain obsolete and superfluous margin records, and by facilitating the ability for member organizations carrying options dealers' accounts to compete with nonmembers, the Exchange will be removing impediments to and perfection of the mechanism of a national market system.

(vi) Inapplicable.

(vii) Inapplicable.

(viii) Inapplicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

No comments were solicited or received with respect to the proposed rule changes.

BURDEN ON COMPETITION

There will be no burden on competition.

On or before January 3, 1978, 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 approved such proposed rule changes, 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 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 29, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 17, 1977.

PROPOSED AMENDMENT TO RULE 431(a)[1]

MARGIN REQUIREMENTS

INITIAL MARGIN RULE

Rule 431. (a) For the purpose of effecting new securities transactions and commitments the margin required shall be *at least the greater of the* [an] amount *specified in the regulations of the Board of Directors of the Federal Reserve System, or* [equivalent to the requirements of] *in* paragraph (b) of this Rule, or such greater amount as the Exchange may from time to time require for specific securities, with a minimum equity in the account of at least $2,000 except that cash need not be deposited in excess of the cost of any security purchased. The foregoing minimum equity and cost of purchase provisions shall not apply to "when distributed" securities in cash accounts and the exercise of rights to subscribe.

For the purpose of this Rule, the term customer shall include any person or entity for whom securities are purchased or sold or to whom securities are sold or from whom securities are purchased whether on a regular way, when issued, delayed or future delivery basis. It will also include any person or entity for whom securities are held or carried. The term will not include a broker or dealer from whom securities are held or carried. The term will not include a broker or dealer from whom a security has been purchased or to whom a security has been sold for the account of the member organization or its customers.

Withdrawals of cash or securities may be made from any account which has a debit balance, "short" position, or commitments, provided that after such withdrawal the equity in the account is at least the greater of $2,000 or the amount required by the maintenance requirement of the Rule.

MAINTENANCE MARGIN RULE

(b) The margin which must be maintained in margin accounts of customers, whether members, allied members, member organizations, or non-members, shall be as follows:

(1) 25% of the market value of all securities "long" in the account; plus

(2) $2.50 per share or 100% of the market value, in cash, whichever amount is greater, of each stock "short" in the account selling at less than $5.00 per share; plus

(3) $5.00 per share or 30% of the market value, in cash, whichever amount is greater, of each stock "short" in the account selling at $5.00 per share or above; plus

(4) 5% of the principal amount or 30% of the market value, in cash, whichever amount is greater, of each bond "short" in the account.

PROPOSED AMENDMENTS TO RULE 431(d)(2)(I)

MARGIN REQUIREMENTS

Other provisions.—(I) Notwithstanding the other provisions of this paragraph (d)(2), a member organization may clear and carry the listed option transactions of one or more registered specialist(s), registered market-maker(s) or registered trader(s) in options (*which registered traders are deemed specialists for all purposes under the Securities Exchange Act of 1934 pursuant to the rules of a national securities exchange*), upon a margin basis satisfactory to the concerned parties, provided [the prior written approval of the Exchange is obtained] *that all real and potential risks in accounts carried under such arrangements are at all times adequately covered by margin deposited in the account or in the absence thereof, the carrying member organization's excess net capital under Rule 325.*

Securities, including options in such accounts shall be valued conservatively in the light of current market prices and the amount which might be realized upon liquidation. Substantial additional margin must be required or excess capital maintained in all cases where the securities carried: (a) are subject to unusually rapid or violent changes in value including volatility in the expiration months of options, (b) do not have an active market, or (c) in one or more or all accounts, including proprietary accounts combined, are such that they cannot be liquidated promptly or represent undue concentration of risk in view of the carrying organization's net capital and its overall exposure to material loss.

[No member organization may, however, clear and carry the listed option transactions of such registered specialists, registered market-makers or registered traders if application of the other provisions of paragraph (d)(2) creates, in the aggregate for all such business cleared and carried, a "cash margin deficiency" which exceeds a percentage of such member organization's excess net capital as prescribed from time to time by the Exchange.

The Exchange may at any time and, from time to time, require proof of compliance with this provision.]

PROPOSED AMENDMENTS TO RULE 432

DAILY RECORD OF REQUIRED MARGIN

Rule 432. (a) Each member organization carrying securities margin accounts for customers shall make each day a record of every case in which, pursuant to the rules of the Exchange or regulations of the Board of Directors of the Federal Reserve System, initial or additional margin must be obtained in a customer's account because of the transactions effected in the account on that day. The record shall [be preserved for at least 12 months, and shall] show, for each account, the amount of margin so required and the time when and manner in which the margin is furnished or obtained. [The record shall be maintained in a manner satisfactory to the Exchange.]

MARGIN MET BY LIQUIDATION

(b) No such organization shall permit a customer to make a practice of effecting transactions requiring such initial or additional margin and then furnishing the margin by liquidation of the same or other commitments; except that the provisions of this paragraph (b) shall not apply to any account maintained for another broker or dealer in which are carried only the commitments of the customers of the other broker or dealer exclusive of his partners or stockholders, provided the other broker or dealer

(1) Is a member organization, or

(2) Has [agreed in good faith] *filed an agreement in writing*[1] with the member organization carrying the account *on an omnibus basis* that he will maintain a record equivalent to that referred to in paragraph (a) of this Rule, or

(3) Is not subject to the regulations of the Board of Directors of the Federal Reserve System.

[(c) Each member organization shall report to the Exchange such information as may be required, with respect to each margin requirement which resulted from transactions effected in a customer's account and which was met by the liquidation of the same or other commitments.]

Supplementary material.—[Information Regarding Rule 432 [¶ 2432]].

.10 Form of record.—The Exchange has not prescribed a form for use in making and maintaining the record.

Individual entries will be deemed a "record" within the meaning of Rule 432(a) (¶ 2432), and such entries need not be combined and kept as a separate record.

.20 Place where record is to be maintained.—A member organization whose customers' accounts are carried on books located only at its main office should maintain the record at its main office. An organization whose customers' accounts are carried on books located at two or more offices should keep the record at each of such offices with respect to the customers' accounts carried on the books of such office. The record must be kept available for inspection at the office at which it is maintained.

[.30 Omnibus accounts—special agreement.—The exemption provided for by clause (2) of paragraph (b) of Rule 432 [¶ 2432] may be availed of only if the prescribed agreement is in writing and is on file in the office of the member organization where the account is carried.]

.30 [.40] Meaning of the term "customer."—For the purpose of Rule 432 (¶ 2432), the term "customer" includes members, member organizations, partners and stockholders therein, as well as nonmembers.

[MARGIN REQUIREMENTS MET BY LIQUIDATION. (FORM MF-1)]

[.50 Persons who must submit reports; form of report.—Each member organization carrying margin accounts for customers is required to submit to Regulation & Surveillance promptly after each quarterly period ending March 31, June 30, September 30 and December 31, of each year, a report showing certain information relevant to every margin requirement in a customer's account which has been met by liquidation, other than those in omnibus accounts exempted under Rule 432(b) [¶ 2432]. The prescribed information is part of the record required to be kept pursuant to Rule 432(a) [¶ 2432] of the Board of Directors and should be submitted on Form MF-1 in the manner described herein. (Reports temporarily suspended.)]

[.60 Contents of MF-1 report—Column 1.—Enter the name of each customer, other than exempted omnibus customers (see below), in whose account liquidation has had the effect of furnishing all or part of the margin which was required by Rules of the Exchange or regulations of the Board of Directors of the Federal Reserve System as

[1] New language italicized, deletions [Bracketed].

[1] Transposed in substance from 432.30.

a result of transactions effected in the account. Customers' surnames should be given first: e.g. "Adams, William B."; "Brown, Mary"; etc. An account that is designated on the ledger in a manner other than by the customer's name, such as by number or abbreviation, should be entered in the manner in which it appears on the ledger. If the designation of an account is changed, both the old and new designations should be given in Column 1 on the first occasion when such account appears on the report after such change takes place. Accounts should be listed alphabetically according to customers' surnames or in numerical order if they are so designated on the ledger.

If items involving different trade dates are to be reported in connection with a particular account, a separate line of the report should be devoted to each such item.

Omnibus accounts not subject to the provisions of paragraph (b) of Rule 432 [¶2432], i.e., those falling within any of the three categories described in the Rule, are not to be reported on Form MF-1. Other omnibus accounts are not exempt from paragraph (b) of the Rule and therefore are to be reported.

If the account in which margin was furnished by liquidation is carried for an individual member of the Exchange, a general partner or a holder of voting stock in a member organization, it should be identified on the report by the use of the letter "M", "P" or "S" after his name or the account designation to indicate whether the customer concerned is a "member", a "general partner" or a "voting stockholder."

Column 2.—Enter in Column 2 each trade date of transactions requiring margin which was furnished by liquidation.

Column 3.—In Column 3 there should be entered the total amount of initial or additional margin necessitated (pursuant to Regulation T or the rules of Exchange whichever amount is greater) by the transactions effected in the account on the date shown in Column 2 (trade date).

Column 4. Enter in Column 4 the trade date of the liquidating transactions effected either upon the customer's order or as a "sell-out" by the broker.

Column 5. In Column 5 should be shown the amount of margin released by the liquidating transaction, e.g., the sale of registered, nonexempted securities in a margin account realizing net proceeds of $1,000 would release $400 which amount should be shown in Column 5.

Column 6. If part but not all of the required margin is furnished by liquidation, indicate in Column 6 whether cash or securities or both were deposited to furnish the balance of the margin. The amounts of margin furnished in each such manner should be shown; in the case of security deposits, it is the maximum loan value of such securities that will be recorded.

In each case where an extension of time has been granted, state in Column 6 by what exchange it was granted and give its expiration date.

Enter in the space provided at the bottom of the form the total number of instances during the period in which, pursuant to the rules of the New York Stock Exchange or Regulation T, transactions effected in customers' accounts resulted in requirements of initial or additional margin (this figure should include requirements met by liquidation as well as those met by deposit).]

[.70 Miscellaneous Instructions Regarding Form MF-1.

(a) If margin is obtained on more than one date, all dates on which liquidation was effected should be shown in Column 4 with corresponding entries in Column 5 and all dates on which cash or securities were deposited in connection with a margin requirement should be shown in Column 6 with the amounts of cash or maximum loan value of securities clearly indicated.

(b) This report includes only cases where margin which was required as a result of transactions in an account was furnished by liquidation. It does not include cases where margin which was demanded by a member organization solely because of depreciation of a customer's equity in an account and not because of transactions in such account, has been furnished by liquidation.

(c) If liquidation in a customer's amount has been effective in satisfying all or part of the margin required by transactions on a previous day but, within the five full business day period prescribed by Regulation T, cash or securities are deposited by the customer in the amount of the requirement and not withdrawn the same day, no entry need be made on Form MF-1 in connection with that item.

(d) The report should be signed by a partner or an officer who is a holder of stock in the reporting organization, or with an authorized signature; but if the record is maintained at a branch office that is not in charge of a resident partner or such an officer, the report may be signed by the branch office manager.

(e) If more than one sheet of Form MF-1 is required for a particular report, the sheets should be numbered serially in the lower right-hand corner, and only the final one need be signed.

(f) If there are no reportable items for a particular period, "None" should be written across the form and it should be dated and signed and promptly submitted.

(g) The report must be legibly prepared and a duplicate copy thereof retained in the office of the reporting member organization.]

[.80 Period Covered by Report; When To Be Sent.

Each report should cover all margin requirements if such requirements were met by liquidation and resulted from transactions effected on trade dates during a particular three-month period. Reports should be forwarded as soon as they contain all necessary entries.

It is important that all envelopes containing reports should be plainly marked "Form MF-1" in the lower left-hand corner.

Organizations are requested to forward promptly each completed report and not to delay such forwarding for the reason that a report of any of its other accounting points is either incomplete or not at hand. Where an extension of time has been properly granted, transmittal of the report is to be postponed until the outstanding margin requirement has been satisfied.]

[FR Doc. 77-34239 Filed 11-28-77; 8:45 am]

[8010-01]

[Release No. 34-14182; File No. SR-PSE-77-24]

PACIFIC STOCK EXCHANGE INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 6, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change (which was amended on October 25, 1977), as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Pacific Stock Exchange Incorporated ("PSE"), has filed a number of "Floor Procedure Advices" which are interpretations and policies related to a variety of subjects respecting PSE's options trading program. The exact language of the numerous interpretations and policies can be found in PSE's formal filing with the Commission in the above-referenced file number.

The interpretations and policies pertain to the following subject matters:

A. CONDUCT OF FLOOR BROKERS

A-1. Responsibility of Floor Brokers at the Opening.

A-3. "Procedure" in Regard to Entering Orders on the Book Under Certain Circumstances.

B. CONDUCT OF MARKET MAKERS

B-1. Prohibition Against Market Makers Acting as Floor Brokers in Classes of Options in Which They Hold a Primary Assignment.

B-6. Market Maker's Use of Floor Brokers to Effect Transactions for the Market Maker's Account.

D. ORDERS

D-8. Marking Orders to Reflect "Split" Transactions.

F. TRADING FLOOR STANDARDS

F-4. Standard of Dress and Conduct on the Options Trading Floor.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the Options Floor procedure Advices set forth hereinabove is to state policies and clarify procedures under existing options trading rules.

By clarifying policies and procedures under existing options trading rules, the Exchange believes that the above Advices will facilitate the fair and efficient operation of such rules and thereby facilitate a fair and orderly market and protect investors and the public interest.

Comments were neither solicited nor received from members, participants or others.

The above Advices will impose no burden on competition.

The foregoing rule change has become effective, pursuant to section

19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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 on or before December 29, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 17, 1977.

[FR Doc. 77-34240 Filed 11-28-77; 8:45 am]

[4810-40]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular, Public Debt Series No. 28-77]

7⅛ PERCENT TREASURY NOTES OF SERIES W-1979

Announcement of Interest Rate

NOVEMBER 23, 1977.

The Secretary of the Treasury announced on November 22, 1977, that the interest rate on the notes described in Department Circular, Public Debt Series, No. 28-77, dated November 15, 1977, will be 7⅛ percent per annum. Accordingly, the notes are hereby redesignated 7⅛ percent Treasury Notes of Series W-1979. Interest on the notes will be payable at the rate of 7⅛ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc. 77-34172 Filed 11-28-77; 8:45 am]

[4810-28]

Office of Revenue Sharing

[Administrative Ruling 77-3]

ANTIRECESSION FISCAL ASSISTANCE PROGRAM CONSTRUCTIVE WAIVER OF PAYMENTS FOR FAILURE TO COMPLY WITH "SPECIAL REPORTS" REQUIREMENTS

Section 209 of the Public Works Employment Act of 1976, as amended, provides that each State and unit of local government which receives a payment shall report to the Secretary any decision to increase or decrease taxes and any substantial reductions in the number of individuals it employs, or services which it provides. Section 52.12(c) of the interim regulations (31 CFR 52.12(c)), promulgated by the Office of Revenue Sharing to implement § 209, provides that each recipient shall submit the required special report upon the request of the Director not later than 6 months after the date on which the decision in impose the change is made public. The purpose of this Administrative Ruling is to advise the public of the procedures which the Office of Revenue Sharing will follow to achieve compliance with the special report requirements of § 209 of the Act and § 52.12 of the interim regulations.

On May 6, 1977, a form for making a "special report" was mailed to all recipient governments to be completed and returned by May 30, 1977. This deadline was extended by several subsequent mailed notices in order to allow recipients the maximum opportunity to respond. When a final deadline of September 9, 1977 passed, several hundred recipient governments had not responded to the Director's request for their reports. Accordingly, the October 7, 1977 quarterly payment of antirecession fiscal assistance to all such nonresponsive governments was delayed pursuant to § 52.3(c) of the interim regulations. A second special report form was mailed to all recipient governments on October 17, 1977. This form should be completed and returned to the Office of Revenue Sharing by November 18, 1977.

Effective immediately upon the publication of this Ruling, any government which has failed to submit a special report to the Director pursuant to § 52.12 of the interim regulations is subject to a determination of having constructively waived its payment for two calendar quarters immediately following the date on which such form was required to be returned to the Office of Revenue Sharing. Prior to such a determination, the Director shall provide at least one notice to a nonresponsive recipient government. If the subject report is not submitted in response to such additional request or requests, the Director shall make a determination that such government has constructively waived its payment for the affected calendar quarters.

Nonresponsive governments will remain eligible for antirecession fiscal assistance allocations. However, a maximum of two quarterly payments shall be delayed and constructively waived for each report that is not submitted.

All funds which are constructively waived will be allocated to the Antirecession Fiscal Assistance Reserve Fund established under § 52.20 of the interim regulations.

The procedures outlined above are modeled after § 51.25(b) of the general revenue sharing regulations, which is used to affect compliance with the reporting requirements of the State and Local Fiscal Assistance Act of 1972, as amended (Revenue Sharing Act).

Dated: November 17, 1977.

RODNEY SCRIBNER,
Deputy Director,
Office of Revenue Sharing.

[FR Doc. 77-34179 Filed 11-28-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 537]

ASSIGNMENT OF HEARINGS

NOVEMBER 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.

CORRECTION[1]

AB 18 (Sub-No. 5), Chesapeake & Ohio Railway Co. abandonment between Williamsburg and Elk Rapids, In Grand Traverse and Antrim Counties, Mich.; AB 18 (Sub-No. 19), Chesapeake & Ohio Railway Co. abandonment portion, Petoskey Subdivision between a point near Traverse City and Bay View, in Grand Traverse, Kalkaska, Antrim, Cherlevoix, and Emmet Counties, Mich., and AB 18 (Sub-No. 20), Chesapeake & Ohio Railway Co. abandonment portion, Traverse City and Petoskey Subdivisions between Manistee and Traverse City and the Northport Subdivision between Traverse City and Rennies, in

[1] This notice corrects place of hearing from Traverse, Mich., to Traverse City, Mich.

Manistee, Benzie, Grand Traverse, and Leelanau Counties, Mich., now being assigned for hearing on January 10, 1978 (9 days), at Traverse City, Mich., in a hearing room to be later designated.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 77-34203 Filed 11-28-77; 8:45 am]

[7035-01]

[No. 536]

ASSIGNMENT OF HEARINGS

NOVEMBER 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 142359 (Sub-No. 2), Port East Transfer, Inc., now assigned November 29, 1977, is postponed to January 10, 1978 (3 days), at Baltimore, Md., in a hearing room to be later designated.

No. MC 114211 (Sub-No. 315), Warren Transport, Inc., now assigned November 29, 1977, at Portland, Oreg., is canceled and application dismissed.

No. MC 140665 (Sub-No. 11), Prime, Inc., now being assigned February 22, 1978, at Chicago, Ill. (1 day), in a hearing room to be later designated

MC 1515 (Sub-No. 228), Greyhound Lines, Inc., now being assigned February 27, 1978 (1 week), at Chicago, Ill., in a hearing room to be later designated.

FF-497, Max Gruenhut International, Inc., and FF-C-67, Max Gruenhut, G.m.b.H. & Co., Max Gruenhut International, Inc., Inland Imports, Inc., and Green Container Transport, Inc., investigation of operations, now being assigned February 23, 1978 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 26739 (Sub-No. 97), Crouch Freight Systems, Inc.; MC 82841 (Sub-No. 213), Hunt Transportation, Inc.; MC 61592 (Sub-No. 403), MC 123048 (Sub-No. 360), Diamond Transportation System, Inc.; MC 73688 (Sub-No. 75), Southern Trucking Corp.; MC 114211 (Sub-No. 308), Warren Transport, Inc.; MC 120737 (Sub-No. 46), Star Delivery & Transfer, Inc.; MC 117574 (Sub-No. 286), Daily Express, Inc.; and MC 106707 (Sub-No. 11), Adams Trucking, Inc., now being assigned February 28, 1978, for hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

No. I&S M-29665, Passenger Fares—Rockland Coaches, Inc., now being assigned January 4, 1978 (3 days), at New York, N.Y., in a hearing room to be later designated.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 77-34204 Filed 11-28-77; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION(S) FOR RELIEF

NOVEMBER 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 on or before December 14, 1977.

FSA No. 43466—*Furniture and related articles between points in southern and official territories.* Filed by Traffic Executive Association—Eastern Railroads, Agent (E.R. No. 3059), for interested rail carriers. Rates on furniture and furniture parts and related articles, in carloads, as described in the application, between points in southern and official territories.

Grounds for relief—Revised rate structure.

Tariffs—Supplement 23 to Traffic Executive Association—Eastern Railroads, Agent, tariff 2008-L, I.C.C. No. C-1127, and Supplement 37 to Southern Freight Association, Agent, tariff 986-D, I.C.C. No. S-1212. Rates are published to become effective on December 24, 1977.

FSA No. 43467—*Joint water-rail container rates—Orient Overseas Container Line, Inc.* Filed by Orient Overseas Container Line, Inc. (No. 9), for itself and interested rail carriers. Rates on general commodities, from ports in Hong Kong, Taiwan, Japan, and Korea, to rail carriers terminal on the U.S. Atlantic Coast.

Grounds for relief—Water competition.

FSA No. 43468—*Coal from Belle Ayr, Wyo.* Filed by Burlington Northern Inc. (No. 1), for Kansas City Southern Railway Co. Rates on coal, in carloads, as described in the application, from Belle Ayr, Wyo., to Flint Creek, Ark.

Grounds for relief—Rate relationship and market competition.

Tariff—Burlington Northern Inc., tariff (not as yet listed), proposed to become effective on January 1, 1978.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 77-34200 Filed 11-28-77; 8:45 am]

[7035-01]

[Notice No. 260]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before December 29, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77344, filed October 4, 1977. Transferee: TRANS-MISSISSIPPI TRUCKING, INC., P.O. Box 6151, Minneapolis, Minn. 55406. Transferor: A & W Trucking Co., Inc., P.O. Box 129, Mosinee, Wis. 54455. Applicants' representative: Val M. Higgins, Attorney at Law, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in certificate MC 113535 (Sub-No. 5), issued November 20, 1968, as follows: *General commodities*, with the usual exceptions, between points in named Wisconsin Towns located in Pepin County, Buffalo County, Pierce County, and Dunn County, Wis., on the one hand, and on the other, Minneapolis, St. Paul, South St. Paul, Newport, Hastings, Red Wing, and Winona, Minn.; and certificate MC 113535 (Sub-No. 9), issued June 23,

1969, authorizing the transportation of: *General commodities,* with the usual exceptions, between points in named towns located in Trempealeau County, Wis., and Jackson County, Wis., on the one hand, and, on the other, Winona and Lanesboro, Minn., and points in Minnesota within 35 miles of Lanesboro, and between points within 10 miles of Ettrick, Wis.; and in certificate MC 113535 (Sub-No. 11), issued March 3, 1970, authorizing the transportation of: *General commodities,* with the usual exceptions, between points in named towns located in LaCrosse County, Wis., on the one hand, and, on the other, points in Minnesota within 50 miles of LaCrosse, Wis. Transferee presently holds no authority from this Commission. No tacking is sought. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77402, filed November 11, 1977. Transferee: TRI-CITY CARTAGE, INC., 4000 Lambert Avenue, Louisville, Ky. 40218. Transferor: Automotive Merchandisers of Texas, Inc., and Ohio Merchandising Corp., doing business as Ohio Merchandising Corp., 1800 Moler Road, Columbus, Ohio 43207. Applicants' representative: Herbert D. Liebman, Attorney at Law, 403 West Main Street, P.O. Box 478, Frankfort, Ky. 40602. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in certificate No. MC 32562 (Sub-No. 25), issued in the name of Point Express, Inc., on June 20, 1967, and acquired by transferor pursuant to MC-FC-77023, effective May 16, 1977, as follows: *Glass containers,* from Huntington, W. Va., to Louisville, Ky. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 77-34205 Filed 11-28-77; 8:45 am]

[7035-01]

[I.C.C. Order No. 39 under Revised Service Order No. 1252]

REROUTING TRAFFIC

To: All Railroads.

In the opinion of Joel E. Burns, Agent, the Carolina, Clinchfield and Ohio Railway Co., is unable to transport traffic over its line between Erwin, Tenn., and Poplar, N.C., because of flooding and track damage.

It is ordered, That:

(a) *Rerouting traffic.* The Carolina, Clinchfield and Ohio Railway Co., being unable to transport traffic over its line between Erwin, Tenn., and Poplar, N.C., because of flooding and track damage, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving road to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 9 a.m., November 7, 1977.

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 16, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 7, 1977.

For the Interstate Commerce Commission.

JOEL E. BURNS,
Agent.

[FR Doc. 77-34201 Filed 11-28-77; 8:45 am]

[7035-01]

[Drought Order No. 71 (Sub No. 4)]

VIRGINIA

Drought Relief

In the Matter of Relief under section 22 of the Interstate Commerce Act:

Present: Charles L. Clapp, Vice Chairman, to whom the above entitled matter has been assigned for action thereon.

It appearing, That by reason of drought conditions existing in certain portions of the Commonwealth of Virginia, the Commission authorized relief under section 22 of the Interstate Commerce Act for the transportation of hay to those disaster areas at reduced rates, as set forth in Drought Order No. 71 and Sub-Nos. 1, 2, and 3 thereto;

It further appearing, That Drought Order No. 71 and Sub-Nos. 1, 2, and 3, are due to expire with December 31, 1977.

And it further appearing, That USDA, by letter dated November 18, 1977, requests that the aforesaid orders be extended to and including May 1, 1978, because of the continuing drought conditions;

And for good cause shown:

It is ordered, That the expiration date shown in the first ordering paragraphs of aforesaid orders, be, and they are hereby, changed to read May 1, 1978;

It is further ordered, That in those instances where tariff publications provide an expiration date, authority is hereby granted to change said date consistent with this order, upon not less than 1 day's notice to the Commission and the public; the terms of rule 9(e) of the Commission's Tariff Circular No. 20 (49 CFR 1300.9) be, and are hereby, waived.

It is further ordered, That in all other respects, the original terms and conditions of the aforesaid orders shall remain the same.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of Federal Register; the Governor of Virginia; and that copies be mailed to the Chairman of the Traffic Executive Association-Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the Chairman of the Executive Committee, Western Railroads Traffic Association, Chicago, Ill; the Vice President and Director, Economics and Finance Department, Association of American Railroads, Washington, D.C.; and to the President of the

American Short Line Railroad Association, Washington, D.C.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C. this 22d day of November 1977.

By the Commission, Vice Chairman Clapp.

NANCY L. WILSON,
Acting Secretary.

[FRDoc.77-34202Filed11-28-77;8:45am]

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

[6712-01]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows the Special Open Commission Meeting, Wednesday, November 30, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Cable Television—1—Motion for a Declaratory Order in Docket No. 20218, filed by Service Electric Cable TV, Inc.

Complaints and Compliance—1—Results of investigation into the operations of WTVX-TV, Ft. Pierce, Fla.

2—Results of investigation into the operations of radio stations WHGR and WJGS (FM), Houghton Lake, Mich.

3—Immunity Order for witness in Payola Inquiry, Docket No. 16648.

Hearing—1—Application for Review filed by the Safety and Special Radio Services Bureau in the Terrance R. Noonan, KFU-7748 Citizens Band Radio Service proceeding (Docket No. 20394).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260,

Issued: November 23, 1977.

[S-1930-77 Filed 11-25-77; 2:19 am]

[6712-01]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, November 30, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Creation of special (hobby-type) service between 27.505 MHz and 27.900 MHz (RM-2776).

General—2—Cosponsorship of the 1978 Conference on Telecommunications Policy Research.

General—3—Utilities Telecommunications Council's petition for Partial Reconsideration and Stay of Second Report and Order in Docket No. 20149, FCC 77-518, released August 4, 1977.

Safety and Special Radio Services—1—Authority of employees of corporations to sign applications for licenses in all of the Safety and Special Radio Services.

Safety and Special Radio Services—2—Application for review of action taken under delegated authority submitted by Mr. Clifford G. Moore.

Common Carrier—1—Comsat's compliance with Accounting Order (Docket No. 16070).

Common Carrier—2—Modification of procedures in Docket No. 20814 investigation into AT&T's Multi-Schedule Private Line (MPL) tariff.

Common Carrier—3—Petition to suspend and investigate the Western Union Telegraph Co. Tariff FCC No. 254.

Common Carrier—4—Petitions to suspend and reject AT&T Transmittal No. 12793, television transmission service (series 7000).

Common Carrier—5—Decision following grant of rehearing by the United States Court of Appeals concerning the Commission's formula for the distribution of outbound unrouted international telegraph traffic among carrier's (Docket No. 19660).

Cable Television—1—Village Communications, Inc.'s application for modification of construction permit in the Cable Television Relay Service (CARS) filed May 2, 1977, and amendment of that application filed August 25, 1977.

Cable Television—2—Application for modification of construction permit in the Cable Television Relay Service (CARS) filed March 14, 1977, by Micro-Cable Communications Corp.

Cable Television—3—Amendment of Part O of FCC Rules delegating, to Chief, Cable Television Bureau, authority to extend certain rules to prevent interference to aeronautical radio services.

Cable Television—4—Request for Declaratory Ruling, filed by the Twentieth Century Fox Film Corp.

Assignment of License and Transfer of Control—1—Reconsideration of amendment of multiple ownership rules with respect to regional concentration of control (Docket No. 20548).

Renewal—1—Petition to deny application of Marsh Media for renewal of license of KVIA-TV, El Paso, Tex., filed by the Committee for the Development of Mass Communications.

Renewal—2—Application of Enid Radiophone Co. for renewal of license of KCRC, Enid, Okla. (BR-465).

Aural—1—Application by the Baltimore Radio Show, Inc. (WBKZ-FM), Glen Burnie, Md. for authority to relocate the WBKZ main studio to Baltimore, Md. (File No. BMLH-581) and alternative request for waiver of Section 73.210(a)(4) of the Commission's rules to permit a majority of programing to originate at an auxiliary WBKZ studio in Baltimore, Md.

Television—1—Application for authority to construct a new television broadcast station on channel 11, Houma, La. and a petition for waiver of the Commission's cut-off rule for television applicants (Section 1.572(c)) filed by the way of Life Television Network, Inc.

Broadcast—1—Notice of Proposed Ruling proposing the deletion of programing restrictions on subscription television (FCC Rules Section 73.643 (b), (c) and (d)).

Complaints and Compliance—1—Review of Broadcast Bureau ruling (August 31, 1977) denying Anthony R. Martin-Trigona's complaint against WGN, Chicago, Ill. for failure to grant him "reasonable access" under Section 312(a)(7) of the Communications Act.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: November 23, 1977.

[S-1931-77 Filed 11-25-77; 2:19 pm]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE OF MEETING: Follows 9:30 a.m. Open Commission Meeting, Wednesday, November 30, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Amendment of Annual Report Forms: Form M—telephone companies; Form O—wire-telegraph/ocean-cable carriers; Form R—radio-telegraph carriers; and Form H—holding companies (Docket No. 20522).

Broadcast—1—Amendment of the Commission's rules to add a new section with re-

spect to corporate ownership reporting and disclosure by widely-held broadcast licensees.

Cable Television—1—Cable television network nonduplication protection against television stations available off the air in the cable community (Third Report and Order, Docket No. 19995).

Cable Television—2—Petition for Waiver, filed by Quinebaug Valley Cablevision, Inc., operator of a cable television system at Southbridge, Mass.; and Opposition to Petition for Waiver, filed by Springfield Television Broadcasting Corp., (WWLP, NBC, Channel 22) Springfield, Mass.

Cable Television—3—Petition for Waiver of Nonduplication Exclusivity Requirements as Demanded filed on behalf of Community Service, Inc., operator of a cable television system at Frankfort, Ky.; and Request for Order to Show Cause filed on behalf of Starr WTVQ-TV, Inc.

Cable Television—4—Request for Declaratory Ruling and Petition for Waiver filed by Capitol Cablevision Corp., operator of cable television systems at Charleston, South Charleston, and Dunbar, W. Va.; and Request for Special Relief filed by Gateway Communications, Inc., (WOWK-TV, ABC, Channel 13) Huntington, W. Va.

Cable Television—5—Petition(s) for Special Relief filed by Hornell Television Service, Inc., operator of a cable television system at Hornell, N.Y.; and Opposition to Petition for Special Relief filed by WENY, Inc., (WENY-TV, ABC, Channel 36) Elmira, N.Y.

Cable Television—6—Petition for Special Relief filed by Avenue TV Cable Service Inc., operator of a cable television system at Ventura, Calif.; and Opposition to Petition for Special Relief filed by Key Television, Inc., (KEYT, ABC, Channel 3), Santa Barbara, Calif.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: November 23, 1977.

[S-1932-77 Filed 11-25-77; 2:19 pm]

[6750-01]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, November 29, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTER

Approval of minutes of nonadjudicative matters considered at meeting of November 15, 1977.

ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

(1) Approval of minutes of adjudicative matters considered at meetings of October 25 and November 1, 1977.

(2) Consideration of final decision in Perpetual Federal Saving & Loan Association, Docket 9083.

(3) Consideration of proposed disposition of respondents' appeal from the initial decision in Docket No. 8958, Boise Cascade Corp., et al.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-1925-77 Filed 11-25-77; 10:46 am]

[6750-01]

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, November 30, 1977.

PLACE: Room 32, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, November 30, 1977, the meeting will automatically be canceled. Any item that is placed on the agenda before that time will be announced in accordance with the additional information procedures posted with Commission meeting notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-1926-77 Filed 11-25-77; 10:46 am]

[7020-02]

6

[USITC SE-77-73]

U.S. INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, December 8, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Bolts, nuts, and screws (Inv. TA-201-27)—Vote on remedy (if necessary).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1923-77 Filed 11-25-77; 10:46 am]

[7020-02]

7

[USITC SE-77-72]

U.S. INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, December 6, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Bolts, nuts, and screws (Inv. TA-201-27)—vote on injury (at 9:45 a.m.).
5. Saccarin from Japan and Korea (Inv. AA1921 -174 and -175)—Briefing and vote (at 10:30 a.m.).
6. Stainless steel pipe and tube (Inv. 337-TA-29)—Consideration of the ALJ's recommended determination.
7. Memorandum to the Deputy Director of Administration from the Director, Finance and Budget (no control number), subject: Fiscal Year 1979 budget—printing in FEDERAL REGISTER.
8. Administrative update (no docu-
8. Administrative update (no documents).
9. Petitions and complaints (if necessary).
10. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S. 1924-77 Filed 11-25-77;10:46 am]

[7590-01]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, December 1, 1977.

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

9:30 A.M.—1. Discussion and analysis of public comments on GESMO (approx. 1½ hrs.) (public meeting).

2. Affirmation of:

(a) November 10 OGC memo re Amendment of 10 CFR 9.108(c).

(b) Motion by Department of Justice for leave to file a brief in response to the Commission's order of October 19, 1977, requesting a briefing (approx. 5 min.) (public meeting).

1:30 p.m.—1. Policy session—Public response to proposed rulemaking: Criteria and procedures for determining eligibility for access to or control over unclassified special nuclear material (approx. 1 hr.) (public meeting).

2. Discussion of personnel matter (approx. 1½ hrs.) (closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated at Washington, D.C., this 23rd day of November 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1929-77 Filed 11-25-77; 2:19 pm]

[7710-12]

9

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

MEETING

The Committee on Audit of the Board of Governors of the U.S. Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5 (as amended, 42 FR 12862, 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 7:30 a.m., on Tuesday, December 6, 1977, in room 223, Main Post Office, 901 Broad Street, Nashville, Tenn. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will review with representatives of the Postal Service's outside auditors the Postal Service's Balance Sheet and Financial Statements for FY 1977.

This Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9 a.m. on the same day. A report of the Committee is on the agenda for the Board meeting.

LOUIS A. COX,
Secretary.

[S-1927-77 Filed 11-25-77; 2:11 pm]

10

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5 (as amended, 42 FR 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m., on Tuesday, December 6, 1977, in Room 223, Main Post Office, 901 Broad Street, Nashville, Tenn. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

AGENDA

1. Minutes of the Previous Meeting.

2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the occurrence of a recent Congressional hearing, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. Schedule of Board Meetings for 1978.

(The Board will discuss meeting dates for 1978. Although the Bylaws of the Board provide that regular meetings will be held on the first Tuesday of each month, they also provide that the Chairman, or the Board, may vary the time of meetings.)

4. Report of the Regional Postmaster General.

(Mr. Symbol, Regional Postmaster General, will report on postal conditions in the Southern Region.)

5. Report of the Audit Committee on FY 1977 Financial Statement.

(Mr. Holding, as Chairman of the Audit Committee of the Board, will report to the members on the meeting of the Audit Committee (which is to be held immediately preceding the meeting of the Board) with representatives of the Postal Service's outside auditors concerning the Service's Balance Sheet and Financial Statements for FY 1977.)

6. Review of the Postal Service Budget Program.

(Mr. Biglin, Senior Assistant Postmaster General for Finance, will present the Postal Service's budget for FY 1979 as it is proposed for transmission to the OMB and the Congress.

7. Review of the Annual Comprehensive Statement to the Congress.

(Pub. L. 94-421 amended 39 U..C. § 2401 to require the Postal Service to present a "Comprehensive Statement" to the Legislative and Appropriations Committees of the Congress having cognizance over postal matters. The Comprehensive Statement is to be presented concurrently with the Service's annual budget submission. The Comprehensive Statement is to describe the plans, policies, and procedures of the Postal Service designed to comply with the policies of the Postal Reorganization Act; postal operations generally; and financial summaries and projections. The Comprehensive Statement is on the Board's agenda because approval of the annual Comprehensive Statement is included in the list of matters that the Board has reserved for its own decision.)

8. Capital Investment Project, San Jose, Calif.

(Mr. Biglin will present a proposed project for a new General Mail Facility and Vehicle Maintenance Facility.)

9. Review of Customer Services.

(Mr. Applegate, Assistant Postmaster General, Customer Services Department, will report on current developments in customer services.)

LOUIS A. COX,
Secretary.

[S-1928-77 Filed 11-25-77; 2:12 pm]

federal register

TUESDAY, NOVEMBER 29, 1977
PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

NATIONAL FLOOD INSURANCE PROGRAM

Final Flood Elevation Determinations; Various Communities

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2993]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Farrell, Mercer County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Farrell, Mercer County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Farrell, Mercer County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Farrell, Mercer County, Pa., are available for review at the Farrell Municipal Building, 924 Spearman Avenue, Farrell, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Farrell, Mercer County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Shenango River	Ohio Street Bridge	838
	At corporate limits	388
	2,800 ft downstream of "low dam."	
	At corporate limits	839
	1,800 ft downstream of "low dam."	
	At low dam	845
	At West Gate Road Bridge.	846
	Northern corporate limits.	847

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33797 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3160]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Jeannette, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Jeannette, Westmoreland County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Jeannette, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Jeannette, are available for review at City Hall, 2nd and Clay Avenue, Jeannette, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Jeannette, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brush Creek	Brown Ave	1,017
	Chambers Ave	997
	6th St	983
	Eleventh St	973
Bull Run	Harrison Ave	1,021
	Pitcairn Ave	1,015
	North 4th St (upstream).	1,005
	North 4th St. (downstream).	1,003
Dowu Run	Lewis Ave	1,009

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33798 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3117]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for The Township of Lower Milford, Lehigh County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Lower Milford, Lehigh County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to

qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Lower Milford, Lehigh County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Lower Milford, Lehigh County, Pennsylvania, are available for review at the Lower Milford Township Office, Chestnut Hill Church Road, Coopersburg, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Lower Milford, Lehigh County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hosensack Creek	Downstream corporate limits.	360
	Schultz Bridge Rd.	384
	Kings Highway	410
	Limeport Pike	444
	School House La.	445
Indian Creek	Schultz Bridge Rd.	390
	Palm Rd	450
	ConRail Bridge	456
	Corporate limits	488
Saucon Creek	do	500
	Emmaus Rd.	511

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33799 Filed 11–28–77;8:45 am]

[4210–01]

[Docket No. FI–2990]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of McAdoo, Schuylkill County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of McAdoo, Schuylkill County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of McAdoo, Schuylkill County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of McAdoo, Schuylkill County, Pa., are available for review at the Borough Hall, 23 North Hancock Street, McAdoo, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of McAdoo, Schuylkill County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Celebration Creek	South Harrison St. (extended).	1,728
	South Handcock St.	1,736
	South Tamaqua St.	1,739
	South Cleveland St.	1,740
	South Sheridan St.	1,742

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33800 Filed 11–28–77;8:45 am]

[4210–01]

[Docket No. FI–2989]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Riegelsville, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Riegelsville, Bucks County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Riegelsville, Bucks County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Riegelsville, Bucks County, Pa., are available for review at the Borough Hall, 615 Easton Road, Riegelsville, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, Room 5270, 451 Seventh Street NW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Riegelsville, Bucks County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Delaware River	South corporate limits.	158
	Riegelsville Bridge	160
	North corporate limits.	163

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33801 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2961]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Reynoldsville, Jefferson County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Reynoldsville, Jefferson County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Reynoldsville, Jefferson County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Reynoldsville, Jefferson County, Pa., are available for review at the Reynoldsville Municipal Building, Main Street, Reynoldsville, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Reynoldsville, Jefferson County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Sandy Lick Creek	Upstream corporate limits.	1,371
	5th St.	1,368
	ConRail Bridge	1,366
Soldier Run	14th St.	1,378
	10th St.	1,368
	Confluence of Sandy Lick Creek.	1,368

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33802 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2964]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Shippen, Cameron County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Shippen, Cameron County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Shippen, Cameron County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Shippen, Cameron County, Pennsylvania, are available for review at the Township Office, R.D. 1, Emporium, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Shippen, Cameron County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Driftwood Branch	Sinnemahoning Creek eastern corporate limits.	1,000
	Broad St. (downstream).	1,025
	Emporium corporate limits (downstream).	1,029
	Con Rail tracks	1,032
	Route 120 (upstream)	1,034
	Route 129 at Route 46 (upstream).	1,078
	Route 129 Bridge at John's Run.	1,115
	Farm Bridge near Bobby Run.	1,177
Sinnemahoning Portage Creek.	Con Rail tracks	1,016
	Route 120 (upstream)	1,023
	Route 155 (upstream)	1,099
	Corporate limits.	1,123
West Creek	Emporium corporate limits.	1,056
	Big Run confluence (Truman).	1,216

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33803 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2921]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for The Borough of Smethport, McKean County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Smethport, McKean County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Smethport, McKean County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Smethport, McKean County, Pa., are available for review at the Borough Building, 412 West Water Street, Smethport, Pa. 16749.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Smethport, McKean County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of the 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Potato Creek	Upstream corporate limits.	1,474
	Confluence of Marvin Creek.	1,471
	Route 6	1,470
	Downstream corporate limits.	1,467
Marvin Creek	Upstream corporate limits.	1,486
	Marvin St.	1,481
	Mechanic St.	1,474
	Confluence of Potato Creek.	1,471

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33804 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3674]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Hewitt, McLennan County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hewitt, McLennan County, Tex.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Hewitt, McLennan County, Tex.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hewitt, McLennan County, Tex., are available for review at City Hall, Hewitt, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Hewitt, McLennan County, Tex.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Chambers Creek	Upstream of West Frontage Rd.	544
	Approximately 240 ft downstream of Old Temple Rd.	577
Castleman Creek	Upstream of West Frontage Rd.	564
	Upstream of Earle Rd.	616
	Downstream of Warren St.	656

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR

17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33805 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3675]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Pflugerville, Travis County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Pflugerville, Travis County, Tex.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Pflugerville, Travis County, Tex.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Pflugerville, Travis County, Tex., are available for review at City Hall, Pflugerville, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Pflugerville, Travis County, Tex.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gilleland Creek	Upstream of Pflugerville Rd. (FM 1825).	673
	Upstream of East Pflugerville Loop.	693
	Western corporate limits.	700

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33806 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3676]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for Brown County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Brown County, Wis.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Brown County, Wis.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Brown County, are available for review at Brown County Courthouse, 125 South Adams Street, Green Bay, Wis.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Brown County, Wis.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Suamico River	North Lake View Dr.	586
	Chicago & North Western RR.	589
	Velp Ave.	590
	Riverside Dr.	595
	Chicago, Minneapolis, St. Paul and Pacific RR.	597
	St. Pat's Dr.	610
	Stream Rd.	624
Branch River	Old Truss Bridge	839
	County Trunk Highway G Bridge.[1]	840
	County Trunk Highway G (south of County Trunk Highway Z).	841
	County Trunk Highway Z.	846
Neshota River	Truss Bridge	690
	Highway 96.	701
Fox River	Highway 172.	586
East River	Memory Ave.	589
	County Trunk Highway XX.	590
	County Trunk Highway G.	591
	Ledgeview Rd.[2]	594
	Highway 32.	605
	Chicago, Minneapolis, St. Paul and Pacific RR.	617
	Highway 57.	624
Dutchman Creek	County Trunk Highway H.	589
	County Trunk Highway G G.[2]	593
	Gross Ave.	594
Ashwaubenon Creek.	U.S. Highway 41.	586
	County Trunk Highway G G.	590
	Grant Rd.	601
Plum Creek	County Trunk Highway D.	625
Duck Creek	Green Bay & Western RR.	592
	Overland Dr.	669
Trout Creek	Riverdale Dr.	663
	Brookwood West Rd.	679
	Shady Dr.[2]	715

[1] Downstream.
[2] Upstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33807 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3373]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of final rule.

SUMMARY: This document corrects a final rule announcing suspension of a community eligibility from the National Flood Insurance Program (NFIP) that appeared on page 49585 of the FEDERAL REGISTER of September 27, 1977, (42 FR 49585).

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

THE FOLLOWING CORRECTION IS MADE: For the listing for New Britain, PA, column three should read New Britain, Township of; column four should read April 18, 1973, emergency; September 30, 1977, regular; October 1, 1977, suspension; column five should read August 2, 1974 and June 18, 1976; and column six should read 420987B. The suspension for the Township of New Britain, Pa., is considered to be effective as of October 1, 1977. Any persons who in reliance on the Federal Register Notice of Final Rule believe their interests have been adversely affected by this correction should immediately contact Mr. Richard Krimm at the address above.

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33817 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3106]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Alexandria Bay, Jefferson County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Alexandria Bay, Jefferson County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Alexandria Bay, Jefferson County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Alexandria Bay, Jefferson County, N.Y., are available for review at the Chamber of Commerce Office, 1 Chamber of Commerce Place, Alexandria Bay, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Alexandria Bay, Jefferson County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
St. Lawrence River.	Fuller St. (extended)	248
	Market St. (extended)	249
	Holland St. (extended)	250
	Northern Mainland corporate limits.	251
	Heart Island	(1)
	Manhatten Island	(2)
Otter Creek	State Route 12	248

[1] Varies from 248 to 250.
[2] Varies from 248 to 251.

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33825 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2978]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Cuba, Allegany County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Cuba, Allegany County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Cuba, Allegany County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Cuba, Allegany County, New York, are available for review at the Village Municipal Building, 17 East Main Street, Cuba, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Cuba, Allegany County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administra-

tor has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Oil Creek	Route 17, East bound.	1,483
	Genesee St.	1,484
Griffin Creek	Abandoned Con Rail Bridge.	1,483
	Bull St.	1,493
	West Main St.	1,498
	Mill St.	1,503
	Erie-Lackawanna R.R. Bridge.	1,509
	Briston St.	1,512
Depression Ditch	Mouth upstream to abandoned Con Rail Bridge.	1,483
	Medbury Ave.	1,487
Rerouted Tannery Creek	Abandoned Farm Rd.	1,492
	Just downstream of Route 17 culvert.	1,493
	Just upstream of Route 17 culvert.	1,499
	East Main St.	1,508
	East View Rd.	1,513

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33826 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2929]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Hammondsport, Steuben County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Hammondsport, Steuben County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Hammondsport, Steuben County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Hammondsport, Steuben County, N.Y., are available for review at the Glenn H. Curtiss Museum Building, Village Clerk's Office, 41 Lake Street, Hammondsport, N.Y. 14840.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Hammondsport, Steuben County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Keuka Inlet	Keuka Lake	721
	State Route 54A	722
	Curtiss Avenue (extended).	724

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33827 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2977]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Mohawk, Herkimer County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Mohawk, Herkimer County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Mohawk, Herkimer County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Mohawk, Herkimer County, N.Y., are available for review at the Mohawk Municipal Building, 28 Columbia Street, Mohawk, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Mohawk, Herkimer County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mohawk River	State Route 28	394
	Confluence of Fulmer Creek.	395
	Confluence of Troy Creek.	395
Fulmer Creek	Con Rail	395
	State Route 55	398
	State Route 28	428

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as

amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33828 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2738]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Newfane, Niagara County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Newfane, Niagara County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Newfane, Niagara County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Newfane, Niagara County, N.Y., are available for review at the Town Hall, Newfane, N.Y. 14148.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Newfane, Niagara County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selection locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Eighteen Mile Creek.	U.S. Route 104 and corporate limits.	355
	Confluence with East Branch Eighteen Mile Creek.	354
	Jacques Rd.	350
	Condren Rd.	339
	Ewings Rd.	315
	Burt Rd.	303
	Penn Central RR.	254
	N.Y. 18.	250
Hopkins Creek	Coomer Rd.	279
	Route 18.	256
	Confluence with Lake Ontario.	249
East Branch	Upstream corporate limits.	374
Eighteen Mile Creek.	Day Rd.	370
	U.S. Route 104.	362
	Farm Rd.	356
	Confluence with Eighteen Mile Creek.	354

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33829 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3088]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Plattsburgh, Clinton County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Plattsburgh, Clinton County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Plattsburgh, Clinton County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Plattsburgh, Clinton County, N.Y., are available for review at the City Hall, City Hall Place, Plattsburgh, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Plattsburgh, Clinton County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lake Champlain	Entire shoreline	102
Scomotion Creek	Entire stream in city	102
Saranac River	Delaware and Hudson RR.	102
	Bridge St.	106
	Broad St. (Kennedy Bridge).	109
	Saranac St.	117
	South Catherine St.	134
	Foot of Waterhouse St.	142
	Foot of Allen St.	148
	Foot of Prospect La.	152
	At USGS gage 04273500.	168
	Downstream of Imperial Mill Dam.	170
	Upstream of Imperial Mill Dam.	189
	Corporate limits (upstream).	190

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33830 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-3151]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Salamanca, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Salamanca Cattaraugus County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Salamanca, Cattaraugus County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Salamanca, Cattaraugus County, N.Y., are available for review at the Salamanca City Municipal Building, 225 Wildwood Avenue, Salamanca, N.Y. 14779.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Salamanca, Cattaraugus County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Allegheny River	Center St.	1,370
	Main St.	1,379
	Route 17	1,382
Little Valley Creek.	Washington St.	1,370
	Corporate limits	1,372
Great Valley Creek.	Con Rail Bridge (first).	1,388
	Route 17	1,391

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33831 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2522]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Roanoke Rapids, Halifax County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Roanoke Rapids, Halifax County, N.C.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is requried to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Roanoke Rapids, N.C.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Roanoke Rapids, are available for review at City Hall, Roanoke Rapids, N.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Roanoke Rapids, N.C.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roanoke River	N.C. 48	63
	Interstate 95	59
Chockoyotte Creek.	Bolling Rd. (SR 1426).	164
	Branch Ave. (SR 1450).	140
	Roanoke Ave. (N.C. 48).	130
	U.S. 158	120
	Smith Church Rd. (N.C. 125).	109
Tributary A (Chockoyotte Creek).	SR 1683	133
	N.C. 125	112
	Private Dr.	97
Hale's Branch	SR 1434	137
	SR 1426	215
Bell's Branch	N.C. 48	132

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33832 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2982]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Rocky Mount, Edgecombe County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Rocky Mount, Edgecombe County, N.C.

These base (100-year) flood elevations are the basis for the flood plain manage-

ment measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Rocky Mount, N.C.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Rocky Mount, are available for review at City Hall, Main Street, Rocky Mount, N.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Rocky Mount, N.C.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tar River	U.S. Route 301	104
	U.S. Route 64 [1]	97
	U.S. Route 64 [2]	96
	State Rd. 1230	78
Tar River tributary.	Hunting Lodge Dr.	93
	State Rd. 1768	75
Hornbeam Branch	Highway 48 [1]	99
	Highway 48 [2]	97
	Highway 97	79
Compass Creek	State Rd. 1538	92
	State Rd. 1401 [1]	83
	State Rd. 1401 [2]	82
Cowlick Creek	Stokes Ave	86
	Virginia St	81
Parkers Canal	Coleman Ave	90
Goose Branch	Southern Blvd	99
	State Rd 1544	85
Stony Creek	U.S. Route 64 [1]	114
	U.S. Route 64 [2]	113
	Winstead Ave	108
Maple Creek	State Rd. 1714	112
	State Rd. 1713	105
Grape Branch	State Rd. 1717 [1]	106
	State Rd. 1717 [2]	104
	Powell Rd	129
	State Rd 1002	103
Little Cokey Swamp tributary.	State Rd. 1152	114

Footnotes at end of table.

[1] Upstream side.
[2] Downstream side.

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33833 Filed 11–28–77;8:45 am]

[4210–01]

[Docket No. FI–3153]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Wilmington, New Hanover, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Wilmington, New Hanover, N.C.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Wilmington, N.C.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Wilmington, are available for review at City Hall, 102 North 3rd Street, Wilmington, N.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Wilmington, N.C.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cape Fear River	U.S. Highways 74 and 76.	11
Northeast Cape Fear River.	U.S. 117	11
	South Carolina Line R.R.	11
Spring Branch	Kerr Ave	11
Burnt Mill Creek	Mercer Ave.[1]	17
	do.[2]	15
	Colonial Dr.	13
	Princess Place Dr.	11
Greenfield Lake	Lakeshore Dr.	11
	3d St.	11
Greenfield Lake North Branch.	16th St.)	18
	do.[2]	16
Greenfield Lake North Branch tributary.	do	24

[1] Upstream.
[2] Downstream.

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33834 Filed 11–28–77;8:45 am]

[4210–01]

[Docket No. FI–2730]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of West Fargo, Cass County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of West Fargo, Cass County, N. Dak.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is

required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of West Fargo, N. Dak.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of West Fargo, are available for review at City Hall, 800 4th Avenue East, West Fargo, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of West Fargo, N. Dak.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sheyenne River	U.S. Highway 10	901
	7th Ave. South	903
	13th Ave. South	904

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33835 Filed 11–28–77;8:45 am]

[4210–01]

[Docket No. FI–3154]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Garibaldi, Tillamook County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Garibaldi, Tillamook County, Oreg.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Garibaldi, Oreg.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Garibaldi, are available for review at City Hall, 107 Sixth Street, Garibaldi, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Garibaldi, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Johnson Creek	Acacia Ave.	11
School Creek	Cypress Ave.	11
	Highway 101	11

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33836 Filed 11–28–77;8:45 am]

[4210–01]

[Docket No. FI–3156]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the Town of Hammond, Clatsop County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Hammond, Clatsop County, Oreg.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Hammond, Oreg.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Hammond, are available for review at the Office of the Mayor, Town Hall, Hammond, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Hammond, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plan management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Columbia River	Bank of Columbia River.	9
Alder Creek	Area near Alfred St	4

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33837 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2984]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Lincoln City, Lincoln County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lincoln City, Lincoln County, Oreg.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Lincoln City, Oreg.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lincoln City, are available for review at City Hall, 4907 Southwest Highway 101, Lincoln City, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Lincoln City, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, whch added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pacific Ocean	North of North 26th Ave.	29
	South of North 26th Ave. to D River.	24
	South of D River to Delake.	36
	South of Delake to Baldy Creek.	23
	South of Baldy Creek to Taft.	31
	South of Taft to 50th St.	25
Devils Lake	At D River	14
	Devils Lake Rd.	14
Siletz Bay	Schooner Creek Rd.	10
	South of 50th St.	17
	Fleet Ave. at South 65th St.	10
	South 63d St.	10
	Fleet Ave. at South 69th St.	11

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33838 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2992]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Butler, Butler County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Butler, Butler County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Butler, Butler County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Butler, Butler County, Pa., are available for review at the City Building, 140 West North Street, Butler, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Butler, Butler County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were re-

ceived from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Connequenessing Creek.	Main St	992
	Center Ave	994
	Monroe	998
	Old Route 442	1,004
Sullivan Run	Negley Ave. (extended).	989
	Cunningham St	993
	Newcastle St	994
	West Brady St	996
	Miller St	1,002
	Mercer St	1,004
	North 6th Ave	1,006
Shanks Hollow Run.	Wick St	1,014
Coal Run	Ziegler Ave	1,017

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33839 Filed 11-28-77;8:45 am]

[4210-01]

[Docket No. FI-2925]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Elizabethtown, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Elizabethtown, Lancaster, County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Elizabethtown, Lancaster County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Elizabethtown, Lancaster County, Pa., are available for review at the Borough Office, 59 North Market Street, Elizabethtown, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Elizabethtown, Lancaster County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were recevied from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Conoy Creek	Con Rail	414
	Bainbridge St	417
	Poplar St. (downstream).	419
	West High St	421
	Poplar St. (upstream).	423
	Market St	425
	Cherry Alley	427
	Spruce St	428
	Mount Joy St	433
	East Willow St	435
	Hickory La	443
	Beechwood Dr	448
	Upstream corporate limits.	449

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

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33840 Filed 11-28-77;8:45 am]

federal register

TUESDAY, NOVEMBER 29, 1977

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

NURSE PRACTITIONER PROGRAMS

Grants

[4110-83]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Grants for Nurse Practitioner Training Programs

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These regulations prescribe requirements for grants to public or nonprofit private schools of nursing medicine, and public health, public or nonprofit private hospitals and other public or nonprofit private entities for nurse practitioner training programs under section 822 of the Public Health Service Act (42 U.S.C. 296m).

DATES: Effective date: November 29, 1977. Comment date: December 29, 1977.

As discussed below, comments on section C.2. of the guidelines published in the appendix to these regulations are invited.

ADDRESSES: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Miss Edith Rathbun, Special Assistant to the Director, Division of Nursing, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 3-50, 3700 East-West Highway, Hyattsville, Md. 20782, 301-436-6684.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 23, 1976 (41 FR 3552), the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposed to amend Part 57 by adding a new Subpart Y to implement section 822 of the Public Health Service Act (42 U.S.C. 296m) as added by the Nurse Training Act of 1975, Title IX of Pub. L. 94-63. That section authorizes the Secretary of Health, Education, and Welfare to award grants to public or nonprofit private schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other public or nonprofit private entities to meet the costs of projects to (1) plan, develop, and operate, (2) significantly expand, or (3) maintain existing programs for the training of nurse practitioners.

Along with the proposed regulations, the Secretary published (as an appendix to the proposed regulations) the guidelines for nurse practitioner training programs which he prescribed after consultation with appropriate educational organizations and professional nursing and medical organizations, as required by section 822(a)(2)(B) of the Act. As mentioned in the preamble to the proposed regulations, the Department held several meetings with representatives of the American Nurses' Association, National League for Nursing, American Association of Colleges of Nursing, American Medical Association, Association of American Medical Colleges, American Public Health Association, and American Hospital Association, and with individuals currently involved in the administration of nurse practitioner training programs. The Department gave careful consideration to the views of these organizations and individuals in developing the guidelines.

Interested persons were afforded the opportunity to participate in the rulemaking process through submission of comments on or before February 23, 1976. Approximately 100 letters with comments on the proposal were received during the comment period.

Subsequent to the publication of the Notice of Proposed Rulemaking, section 822 was amended by section 307(o)(5) of Title III of Pub. L. 95-83, the Health Services Extension Act of 1977 (August 1, 1977), which added (1) a requirement that the Secretary give special consideration to applications for programs for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 332 of the Public Health Service Act), and (2) a new subsection (b) which authorizes grants for traineeship programs to train nurse practitioner students who are residents of a health manpower shortage area designated under section 332, and who enter into a commitment with the Secretary to practice as a nurse practitioner in such an area. Accordingly, § 57.2406(a) of the proposed regulations, concerning evaluation and grant awards, has been revised to provide that in awarding grants the Secretary will give special consideration to projects for training programs which train nurse practitioners who will practice in health manpower shortage areas designated under section 332 of the Act, as the amended statute requires. The Department intends to develop separate regulations governing grants for traineeship programs under the new subsection (b) of section 822 to be published in the FEDERAL REGISTER as a Notice of Proposed Rulemaking.

A summary of the comments received on the proposed rules and the Department's response to the comments are set forth below. For clarity, the comments and responses have been arranged according to the sections of the proposed regulations to which they pertain.

Section 57.2402—Definitions. A large number of comments were received concerning the definitions of "school of nursing" and "collegiate school of nursing" which the statutory terms defined in section 853 (2) and (3) of the Public Health Service Act. The proposed regulations unfortunately contained an incomplete reference to the statutory provisions and generated some confusion. For purposes of clarity, § 57.2402 has been revised to include the statutory definitions of "school of nursing," "collegiate school of nursing," "associate degree school of nursing," and "diploma school of nursing" in their entirety.

One comment requested a revision of the definition of "school of medicine" to include schools of osteopathy so that such schools would be eligible for grants under section 822. Because the term "school of medicine" is defined in the Public Health Service Act (See for example, section 701 of the Act.) as a school which offers training leading to the degree of doctor of medicine, it is not possible to include schools of osteopathy in the definition since schools of osteopathy do not offer such training but rather training leading to the degree of doctor of osteopathy. The Department therefore has not made the requested change. It should be noted, however, that this change is not necessary to establish the eligibility of schools of osteopathy for grants under section 822, since the statute provides that public or nonprofit private entities are eligible for support.

A number of comments concerned the related definitions of "nurse practitioner," "program for the training of nurse practitioners," and "primary health care," which also appear in the guidelines for nurse practitioner training programs prescribed by the Secretary. None of the comments differed materially with the Department's approach; rather they suggested qualifying language, additional emphasis, or further explanation. Some of the comments endorsed the definitions as appropriate and valid.

Several comments suggested revising the definitions of "nurse practitioner" and "program for the training of nurse practitioners" to state more clearly that the functions and responsibilities of a nurse practitioner are in addition to those usually carried out by a registered nurse. The Department agrees with this suggestion and has added the phrase "to perform in an expanded role" to both of these definitions. The definition of "program for the training of nurse practitioners" has been further clarified to indicate that such a program must be a full-time educational program. This is consistent with the requirement in the guidelines for nurse practitioner programs that a program's minimum enrollment consist of eight full-time students.

Some comments objected to the portion of the proposed definition of "program for the training of nurse practitioners" which specifies, in accordance with section 822(a)(2)(A) of the Act, that such a program is "* * * for registered nurses (irrespective of the type

of school of nursing in which the nurses received their training) * * *." Several persons suggested that in view of the knowledge and skills needed by the nurse practitioner in the delivery of primary care, the regulations should require programs to enroll only graduates of collegiate schools of nursing. Inasmuch as the statute requires that eligibility for nurse practitioner training be available to all registered nurses, regardless of the type of nursing school attended, this suggestion could not be accepted. Other commenters objected to limiting enrollment in these programs to registered nurses. The Department recognizes that the statutory language defining a program for the training of nurse practitioners as a program "* * * for registered nurses * * *" may be interpreted as either (1) limiting eligibility for grants under section 822 to programs which enroll only registered nurses, or (2) permitting support of programs which, although designed for the training of registered nurses, are not restricted in enrollment to students who are registered nurses. The Secretary, however, believes that it is preferable to limit eligibility to nurse practitioner programs which enroll only currently licensed registered nurses. Licensure to practice as a registered nurse is evidence that the individual has successfully completed a State-approved initial program of nursing education and has a proven level of competency on which to build additional skills and abilities. The nurse practitioner training program, as defined in § 57.2402(o) of the regulations, is premised upon this demonstrated level of competency as the base for learning to perform in an expanded role in the delivery of primary health care. In addition, the clinical component of the curriculum involves the student at once in providing an advanced level of care for which an active license is required. Therefore, the proposed definition of "program for the training of nurse practitioners" has not been changed with respect to the requirement that the program be for registered nurses. Consistent with this decision, the guidelines for nurse practitioner training programs prescribed by the Secretary and published as an appendix to the proposed regulations have been modified to state clearly that only registered nurses who are currently licensed to practice nursing are eligible for enrollment in these programs. (See section C.2. of the Guidelines.)

However, in order to allow additional opportunity for public comment solely on this aspect of the final regulations, comments are invited on section C.2. of the Guidelines as published in the appendix. Comments received not later than December 29, 1977, will be considered and, following the close of this additional period for comment, the regulations will be revised as warranted by the additional comments received.

A few of the comments requested that the definition of "program for the training of nurse practitioners" be expanded to include the option of areas of concentration, such as family planning. It should be noted that the origin of this definition is statutory (section 822(a)(2)(A)). The Department has chosen to add little to this definition in the belief that the definition should describe the minimum program which may be supported under section 822. The regulations, however, do not preclude training programs which meet the basic criteria of the definition from offering additional academic and clinical training for certain aspects of primary care. Because the Department wishes to permit flexibility in this area, it has rejected the suggestion that it specify optional areas of concentration in the definition of the program.

Several comments suggested revising the definitions of "nurse practitioner" and "primary care" to state more precisely the nurse-physician relationship and responsibilities. Because the relationship between the nurse practitioner and the physician is an evolving or variable one, the Department takes the view that it would be inappropriate to regulate this relationship through these rules. It should be noted that the definition of "primary care" is a definition which the Department has developed for use in a number of health manpower programs that it administers and is intentionally broad and conceptual for purposes of flexibility. For these reasons, the suggested revisions have not been made.

Section 57.2403—Eligibility. A large number of comments concerned the eligibility of applicants for grants under section 822. Some of the commenters requested that the Department limit eligible applicants to collegiate schools of nursing in the belief that collegiate schools are most able to conduct quality nurse practitioner training programs. Other commenters, similarly concerned with the need for adequate quality control of the educational program, objected to the eligibility of noneducational or service institutions. Others took the view that, in order to be eligible for these grants, entities other than collegiate schools of nursing should be required to work collaboratively with collegiate schools.

Despite these comments, the provision governing eligibility has not been changed, since under the statute public or nonprofit private schools of nursing, medicine, and public health, public or nonprofit private hospitals and other public or nonprofit private entities are all eligible for support. The Department, of course, shares the concern expressed in these comments that projects supported under section 822 should provide training programs of the highest caliber. It is the Department's view, however, that this concern is adequately addressed by the requirement in the statute and regulations that projects conduct their nurse practitioner training programs in accordance with the guidelines prescribed by the Secretary. Moreover, it should be noted that section G.4. of these guidelines, which were published as an appendix to the proposed regulations, expressly provides that "Where the institution or organization conducting the program is other than a school of nursing, medicine, or public health, it shall provide for sufficient educational expertise through written agreements with a collegiate school of nursing, school of medicine, or school of public health."

Section 57.2404—Application. Several commenters thought that the grant application should contain a description of the employment opportunities available to graduates of the training program and the program's methods for placing graduates in suitable positions. Because prepared nurse practitioners are generally considered to be a national resource, and there is a demonstrated need for them throughout the country, it is the Department's view that it is not necessary to require applicants to address the question of employment opportunities for graduates in applying for grants under section 822. Therefore, no such requirement has been added.

Under § 57.2404(c)(1)(x) of the proposed regulations, an applicant must describe the nurse practitioner program's recruitment plans and criteria for selection of students. Some comments suggested requiring these plans to include the recruitment of students from underserved areas, while others suggested imposing upon students an obligation to practice in such areas upon graduation. Inasmuch as section 822 provides assistance to programs rather than to students, there appears to be no basis upon which the Department could require students trained in these programs to enter service obligations in return for training. Moreover, this problem is specifically addressed by the new authority for grants for traineeship programs to train nurse practitioners under section 822(b), as amended by Pub. L. 95-83, which authorizes the Secretary to make grants to and enter into contracts with schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to establish and operate traineeship programs to train nurse practitioners who are residents of a health manpower shortage area designated under section 332 of the Act and who enter into a commitment with the Secretary to practice in such an area. For these reasons, the provision in question has not been changed. As noted above, separate regulations will be developed for grants for traineeship programs under the new section 822(b).

A few comments suggested that the application include evidence of the approval of the training program by an outside planning agency. The Secretary thinks that this concern will be met by the addition to the regulations of the requirement that an application must include evidence that all applicable requirements in section 1513(e) of the Public Health Service Act have been met (§ 57.2404(c)(9) of the regulations.) Section 1513(e) provides, with certain exceptions, for the review and approval or disapproval by the appropriate health systems agency of each proposed use within its health service area of Federal

funds appropriated under the Public Health Service Act and certain other statutes. The procedures that applicants will be required to follow for purposes of section 1513(e) will be set out in regulations which are currently under development by the Department.

Section 57.2406—Evaluation and grant awards. As noted above, § 57.2406(a)(2) of the proposed regulations has been revised to provide that in awarding grants special consideration will be given to programs for training nurse practitioners who will practice in health manpower shortage areas designated under section 332 of the Act, in accordance with section 822(a)(1) of the Act as amended by Pub. L. 95-83. Section 57.2406(a)(3) of the proposed regulations provided for the Secretary to give special consideration in evaluating grant applications to projects for nurse practitioner programs which award academic credit to students who successfully complete the program. While the majority of comments on this provision agreed with the proposal, some opposed it on the grounds that certain of the eligible applicants which are not academic institutions (i.e., public and nonprofit private hospitals and public and nonprofit entities) cannot award academic credit for the training offered and, therefore, could not receive this special consideration. It is the Department's view, however, that having studied full time for at least one academic year, graduates of nurse practitioner training programs should receive, wherever possible, academic credit, which would be accepted by the grantee or another institution for purposes of earning a degree or meeting other requirements. Moreover, the Department is of the opinion that programs which offer academic credit are more desirable from the student's standpoint and are thus more likely to attract serious, committed students. Therefore, the provision for giving special consideration to programs which will award academic credit to their graduates has not been changed.

Some commenters suggested giving priority to programs which have co-program directors from nursing and medicine, as recommended in the guidelines for nurse practitioner training programs. While the Department recommends the use of co-program directors as a means of providing joint participation by nursing and medicine in the planning, development, and operation of these training programs, it does not consider co-program direction of sufficient significance to warrant priority in the awarding of grants.

Section 57.2408—Expenditure for grant funds. Section 57.2408(b) of the proposed regulations provided that grant funds may be used in accordance with an approved application for the clinical training of nurse faculty members in order to meet the requirements of the guidelines. A few comments suggested that the expenditure of grant funds for faculty preparation should not be restricted in this way. Section 822(c) of the Act provides that the costs for which a grant under section 822 may be made may include costs of preparation of faculty members in order to conform to the guidelines. In the Department's view, this provision is to enable nurse faculty to acquire knowledge and skills in those aspects of primary care not previously considered the nurse's responsibility and thus not included in the nursing curriculum. Furthermore, support for the preparation of nurse faculty in other subjects, as well as for the training of nonnurse personnel, is available under other provisions of the Public Health Service Act. For these reasons, the suggested change in this provision has not been made.

Appendix—Guidelines for Nurse Practitioner Training Programs. A number of comments addressed the requirements for nurse practitioner training programs contained in the guidelines prescribed by the Secretary pursuant to section 822(a)(2)(B) of the Act and set forth as an appendix to the proposed regulations.

A number of comments concerned the provision in the guidelines dealing with the organization and administration of nurse practitioner training programs (section B.1.). Most of these comments endorsed the requirement for active collaboration with nurses and physicians who have expertise relevant to the nurse practitioner role and primary health care in the planning, development, and operation of such programs, although they expressed various views concerning what the respective roles and responsibilities of the nurses and physicians should be. Because the establishment of nurse practitioner programs with the joint participation of nursing and medicine is a relatively new development, the Secretary thinks that it would be unwise, in light of the very limited operational experience, to mandate specific roles for those participating in the collaborative effort. Therefore, the suggestion that the guidelines go beyond the general requirement for active collaboration has not been accepted.

With respect to the related provision in the guidelines recommending that a program have co-program directors from nursing and medicine (section B.2.), there were a variety of suggestions and objections: That the guidelines should require nurses as program directors since these are nurse training programs, that co-program directors would increase program costs or cause administrative problems, and that the guidelines should not interfere with program organization in this way. On the other hand, a number of commenters approved of the recommendation as fostering joint participation, while others took the view that to assure adequate participation by nursing and medicine, co-program directors should be mandatory. It is the Department's position that the guidelines should permit flexibility on the part of the institutions conducting the training and should not restrict their choice of program directors to individuals trained in a particular discipline or require co-program directors from nursing and medicine. Although not adopted as a requirement, the Department considers co-program direction a useful means of providing joint participation by nursing and medicine, and thus has retained the recommendation in the guidelines.

Several comments objected to the requirement in section C.1. of the guidelines that a program have a minimum enrollment of eight full-time students in each class. Section 822(a)(2)(B)(ii) of the Act provides that the guidelines must require nurse practitioner programs to have an enrollment of not less than eight students. The Secretary interprets this requirement as applying to each class of students enrolled in the program if the program consists of more than one class and has retained this provision of the guidelines.

Many comments concerned the requirement in section D of the guidelines that nurse practitioner training programs extend for at least one academic year and consist of at least four months (in the aggregate) of classroom instruction. In response to those commenters who thought that one academic year was an excessive length of time for this training, the Department points out that this requirement is mandatory under section 822(a)(2)(B)(i) of the Act and shorter training periods thus are not permissible. Some comments expressed the view that one academic year was an insufficient period in which to train nurse practitioners. First, it should be noted that programs are not restricted in length to the minimum one academic year prescribed by the guidelines. Since in the Secretary's opinion, however, programs which are one academic year in length and meet all of the requirements in the guidelines can train nurses adequately to perform as nurse practitioners, the Secretary has not accepted the suggestion to increase the minimum program length. The definition of "program for the training of nurse practitioners" has been modified, however, to specify that it must be a *full-time* educational program (as discussed above), which may meet the concerns of those who considered one academic year too short for this type of training.

As noted above, section C.2. of the guidelines has been modified to state clearly that only registered nurses currently licensed to practice nursing may be enrolled in nurse practitioner training programs.

Several comments indicated that a preceptorship should be required, rather than optional, equating this type of arrangement with the clinical practice component of the training. While the guidelines require in section E.1. ("Curriculum") that the training program shall consist of classroom instruction and faculty-supervised clinical practice, the Department's position is that the institution providing the training should be free to determine what kind of clinical practice experience is most suitable for its particular program.

In addition to the above changes, the proposed regulations have been revised as follows:

1. Proposed § 57.2406, "Evaluation and grant awards," has been revised by in-

cluding a new paragraph (c) which sets forth the Public Health Service policy on the award of noncompeting continuation grants. (See § 57.2406(c) of the final regulations.)

2. Section 57.2411(b) of the proposed regulations, dealing with accounting for royalties, has been revised to bring that provision into conformity with current Public Health Service policy.

3. Several minor changes of an editorial or technical nature have also been made in the regulations as proposed.

Accordingly, a new Subpart Y is added to 42 CFR Part 57 and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare 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: September 27, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 21, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart Y—Grants for Nurse Practitioner Training Programs

AUTHORITY: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 822, 89 Stat. 361 (42 U.S.C. 296m).

§ 57.2401 Applicability.

The regulations of this subpart are applicable to the award of grants to public or nonprofit private schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other public or nonprofit private entities under section 822 of the Public Health Service Act (42 U.S.C. 296m) to meet the cost of projects to (a) plan, develop, and operate, (b) significantly expand, or (c) maintain existing programs for the training of nurse practitioners.

§ 57.2402 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "Council" means the National Advisory Council on Nurse Training (established by section 851 of the Act).

(d) "School of nursing means a collegiate, associate degree, or diploma school of nursing.

(e) "Collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited as provided in section 853(6) of the Act.

(f) "Associate degree school of nursing" means a department, division or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited as provided in section 853(6) of the Act.

(g) "Diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited as provided in section 853(6) of the Act.

(h) "School of medicine" means a school which provides training leading to a degree of doctor of medicine and which is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(i) "School of public health" means a school which provides training leading to a graduate degree in public health and which is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(j) "Nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(k) "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(l) "Program director" means a qualified individual designated by the grantee and approved by the Secretary who is to be functionally responsible for the training program being supported under this subpart.

(m) "Project period" mean the total time for which support for a project has been approved, including any extensions thereof.

(n) "Budget period" means the interval of time into which the approved activity is divided for budgetary and reporting purposes.

(o) "Program for the training of nurse practitioners" or "nurse practitioner training program" means a full-time educational program for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meets the guidelines prescribed by the Secretary in the Appendix to this subpart and which has as its objective the education or nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in such program, be qualified to effectively perform in an expanded role in the delivery of primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, and other health care institutions.

(p) "Nurse practitioner" means a registered nurse who has successfully completed a formal program of study designed to prepare registered nurses to perform in an expanded role in the delivery of primary health care including the ability to:

(1) Assess the health status of individuals and families through health and medical history taking, physical examination, and defining of health and developmental problems;

(2) Institute and provide continuity of health care to clients (patients), work with the client to insure understanding of and compliance with the therapeutic regimen within established protocols, and recognize when to refer the client to a physician or other health care provider;

(3) Provide instruction and counseling to individuals, families, and groups in the areas of health promotion and maintenance, including involving such persons in planning for their health care; and

(4) Work in collaboration with other health care providers and agencies to provide, and where appropriate, coordinate services to individuals and families.

(q) "Primary health care" means care which may be initiated by the client or provider in a variety of settings and which consists of a broad range of personal health care services including:

(1) Promotion and maintenance of health;

(2) Prevention of illness and disability;

(3) Basic care during acute and chronic phases of illness;

(4) Guidance and counseling of individuals and families; and

(5) Referral to other health care providers and community resources when appropriate.

In providing such services (1) the physical, emotional, social, and economic status, as well as the cultural and environmental backgrounds, of individuals, families, and communities (where applicable) are considered; (2) the client is provided access to the health

care system; and (3) a single provider or team of providers, along with the client, is responsible for the continuing coordination and management of all aspects of basic health services needed for individual and family care.

§ 57.2403 Eligibility.

(a) *Eligible applicants.* To be eligible for a grant under this subpart the applicant shall:

(1) Be a public or nonprofit private school of nursing, medicine, or public health, public or nonprofit private hospital, or other public or nonprofit private entity; and

(2) Be located in a State.

(b) *Eligible projects.* A grant under this subpart may be made to an eligible applicant to meet the cost of:

(1) A project to plan, develop, and operate a program for the training of nurse practitioners (which will be in operation no later than 12 months after the award of a grant under this subpart);

(2) A project to significantly expand a program for the training of nurse practitioners through one or a combination of the following activities:

(i) a planned increase in student enrollment,

(ii) the addition to the program of one or more fields of clinical practice, or

(iii) the addition of a new training site for the total program; or

(3) A project to maintain an existing program for the training of nurse practitioners.

§ 57.2404 Application.

(a) Each eligible applicant desiring a grant under this subpart shall submit an application in such form and at such time as the Secretary may prescribe.[1]

(b) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart shall contain the following:

(1) A full and adequate description of the proposed project, including:

(i) Information concerning the need for and signficance of the proposed project.

(ii) A description of the setting in which the training program will be conducted and the primary health care needs to which such program will be responsive.

(iii) A detailed description of the planning and developmental activities to be carried out or which have been accomplished by the applicant.

(iv) A detailed time plan for each year of the project period, identifying target dates for project activities and including any plans for continuing such activities beyond the project period.

(v) A description of specific measurable objectives for the proposed project consistent with the purposes of section 822 of the Act.

(vi) A detailed plan for achieving the stated objectives of the proposed project.

(vii) A description of the program curriculum, including course content and the number of hours of classroom instruction, supervised laboratory, and clinical practice.

(viii) A plan and methodology for evaluating the training program in accordance with the requirements of § 57.2405(c).

(ix) Where the training includes a preceptorship, a description of such preceptorship, including length, type of practice, and amount of faculty supervision.

(x) A description of recruitment plans and criteria for the selection and admission of students.

(xi) An estimate of the number of students to be enrolled during the project period.

(xii) In the case of a project to significantly expand a nurse practitioner training program, a description of the manner in which the program is to be expanded and a plan for achieving such expansion during the project period.

(2) Evidence satisfactory to the Secretary that the applicant has secured any required institutional clearances and approvals for the planning, development, and operation of the program.

(3) Information concerning the background and qualifications of the program director, staff, and consultants.

(4) Evidence satisfactory to the Secretary that the applicant will have available adequate faculty, staff facilities, clinical practice settings, and equipment for the conduct of the proposed project.

(5) A description of any written agreements with other institutions or organizations for carrying out the proposed project.

(6) A detailed budget for the proposed project and a justification of the amount of grant funds requested.

(7) A description of financial resources available to the applicant to assure the sound establishment, maintenance, and continuation of the proposed project beyond the project period.

(8) Where the proposed project includes the cost of providing nurse faculty members with the clinical preparation necessary to meet the guidelines set forth in the Appendix to this subpart, a description of the faculty to be trained, the type of training required, and the manner in which such training will be obtained.

(9) Evidence that all applicable requirements of section 1513(e) of the Act have been met.

(d) The application shall contain an assurance satisfactory to the Secretary that (1) in the case of a project to plan, develop, and operate a program for the training of nurse practitioners, such program will upon its development meet the guidelines set forth in the Appendix to this subpart, or (2) in the case of a project to significantly expand or maintain an existing program for the training of nurse practitioners, such program meets the guidelines set forth in the Appendix to this subpart.

§ 57.2405 Project requirements.

A project supported under this subpart shall be conducted in accordance with the following requirements:

(a) The project shall conduct its program for the training of nurse practitioners in accordance with the guidelines prescribed by the Secretary and set forth in the Appendix to this subpart.

(b) The program director shall be responsible for the conduct of the training program unless replaced by another individual found by the Secretary to be qualified to carry out such responsibilities. Where the program director becomes unable to function in such capacity, the Secretary shall be notified as soon as possible.

(c) In accordance with the plan set forth in its approved application, the project shall collect, evaluate, and make available to the Secretary data concerning the training program being conducted. Such data collection and evaluation shall include, at a minimum:

(1) Systematic evaluation by faculty and students of the program curriculum in relation to the purposes, objectives, and conceptual framework of the program.

(2) Evaluation of the effectiveness of the program in relation to its purposes and objectives.

(3) Information concerning the number of student applicants and students enrolled, student characteristics (such as age, sex, race, educational background, and previous work experience, including type of position, specialty, and work setting), and student performance in classroom work and clinical practice.

(4) Information concerning the number of graduates per class, the attrition rate, characteristics of graduates (such as age, sex, race, educational background, and previous work experience, including type of position, specialty, and work setting), employment after graduation (including setting and location), and utilization and performance of graduates (including employer assessment).

§ 57.2406 Evaluation and grant awards.

(a) *Evaluation.*

(1) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council, may award grants to those applicants whose projects will in his judgment best promote the purposes of section 822 of the Act, taking into consideration:

(i) The degree to which the project plan adequately provides for meeting the requirements set forth in § 57.2405 and the Appendix to this subpart;

(ii) The potential effectiveness of the proposed project in carrying out the training purposes of section 822 of the Act and this subpart;

(iii) The capability of the applicant to carry out the proposed project;

[1] Applications and instructions may be obtained from the Division of Nursing, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, Room 3-50, 3700 East-West Highway, Hyattsville, Md. 20782.

(iv) The extent to which the project has joint program direction by qualified nurse and physician educators;

(v) The soundness of the fiscal plan for assuring effective utilization of grant funds; and

(vi) The potential of the project to continue on a self-sustaining basis after the project period.

(2) Pursuant to section 822(a)(1) of the Act, the Secretary will give special consideration to:

(i) Projects for programs for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 332 of the Act); and

(ii) Projects for training programs which emphasize training respecting the special problems of geriatric patients and training to meet the particular needs of nursing home patients.

(3) The Secretary will also give special consideration to projects for nurse practitioner programs which will award academic credit to students who successfully complete the training program.

(b) *Grant awards.*

(1) The amount of any award under this subpart will be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (i) on the basis of his estimate of the actual indirect costs reasonably related to the project, or (ii) on the basis of a percentage of all or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(2) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(3) Neither the approval of any project nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application at such times and in such form as the Secretary may prescribe.

(c) *Noncompeting continuation awards.* If a grantee has filed an application for continuation support and within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project if (1) the application is for a project which meets the regulations of this subpart and (2) on the basis of such progress and accounting records as may be required, the Secretary finds that the project's activities during the current budget period justify continued support of the project for an additional budget period. If the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b)(1) of this section. If the Secretary decides not to continue supporting a project for an additional budget period, he will notify the grantee in writing before the end of the current budget period. In addition, the Secretary may provide financial support for the orderly phaseout of the supported project, if he determines that such support is necessary.

§ 57.2407 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 57.2408 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart shall be expended solely for carrying out the approved project in accordance with section 822 of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74; *Provided*, That such funds shall not be expended for sectarian instruction or for any religious purpose.

(b) Funds granted pursuant to this subpart may be used in accordance with an approved application for the clinical training of nurse faculty members in order to meet the guidelines set forth in Appendix A.

(c) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 57.2409 Nondiscrimination.

(a) Attention is called to the requirements of section 855 of the Act and 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VIII of the Act to, or for the benefit of, any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.), and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 84).

(e) Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 2½, 1965) as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

(f) The grantee shall not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.2410 Human subjects.

No award may be made under this subpart unless the applicant has complied with 45 CFR Part 46 and any other applicable requirements pertaining to the protection of human subjects.

§ 57.2411 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from the other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart; *Provided*,

That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant shall be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 822 of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee, unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise, except that any grantee that is a State or local government as defined in 45 CFR 74.3 which receives royalties in excess of $200 a year must return the Federal share of the excess amount (computed by applying the percentage of Federal participation in the cost of the grant supported project to the excess amount) to the Federal Government, unless a specific agreement provides otherwise.

(c) *Grant closeout.*

(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assigns by setoff or other action as provided by law.

§ 57.2412 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government as those terms are defined in 45 CFR 74.3, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable materials developed or resulting from a project supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* Where the grantee is not a State or local government, as so defined, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials, and to authorize others to do so.

§ 57.2413 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to all other grantee organizations under this subpart:

Subpart
- A General.
- B Cash depositories.
- C Bonding and insurance.
- D Retention and custodial requirements for records.
- F Grant-related income.
- K Grant payment requirements.
- L Budget revision procedures.
- M Grant closeout, suspension, and termination.
- O Property.
- Q Cost principles.

§ 57.2414 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health, or the conservation of grant funds.

APPENDIX

GUIDELINES FOR NURSE PRACTITIONER TRAINING PROGRAMS

The guidelines set forth below have been prescribed by the Secretary after consultation with appropriate educational organizations and professional nursing and medical organizations, as required by section 822(a)(2)(B) of the Public Health Service Act.

A. *Definitions.* 1. "Program for the training of nurse practitioners" or "nurse practitioner training program" means a full-time educational program for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meets the guidelines prescribed herein and which has as its objective the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in such program, be qualified to effectively perform in an expanded role in the delivery of primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, and other health care institutions.

2. "Nurse practitioner" means a registered nurse who has successfully completed a formal program of study designed to prepare registered nurses to perform in an expanded role in the delivery of primary health care including the ability to:

a. Assess the health status of individuals and families through health and medical history taking, physical examination, and defining of health and developmental problems;

b. Institute and provide continuity of health care to clients (patients), work with the client to insure understanding of and compliance with the therapeutic regimen within established protocols, and recognize when to refer the client to a physician or other health care provider;

c. Provide instruction and counseling to individuals, families and groups in the areas of health promotion and maintenance, including involving such persons in planning for their health care; and

d. Work in collaboration with other health care providers and agencies to provide, and where appropriate, coordinate services to individuals and families.

3. "Primary health care" means care which may be initiated by the client or provider in a variety of settings and which consists of a broad range of personal health care services including:

a. Promotion and maintenance of health;

b. Prevention of illness and disability.

c. Basic care during acute and chronic phases of illness;

d. Guidance and counseling of individuals and families; and

e. Referral to other health care providers and community resources when appropriate.

In providing such services (i) the physical, emotional, social, and economic status, as well as the cultural and environmental backgrounds of individuals, families, and communities (where applicable) are considered; (ii) the client is provided access to the health care system; and (iii) a single provider or team of providers, along with the client, is responsible for the continuing coordination and management of all aspects of basic health services needed for individual and family care.

B. *Organization and administration.* 1. A nurse practitioner training program shall have active collaboration with nurses and physicians who have expertise relevant to the nurse practitioner role and primary health care, to assist in the planning, development, and operation of such a program. In addition, where the institution or organization conducting the program is other than a school of nursing, medicine, or public health, such collaboration shall be with nurses and physicians who are affiliated with either a collegiate school of nursing, school of medicine, or school of public health.

2. Co-program directors from nursing and medicine are recommended.

C. *Student enrollment.* 1. A nurse practitioner training program shall have an enrollment of not less than eight full-time students in each class.

2. Only registered nurses who have received their initial nursing preparation from a school of nursing as defined in section 853 of the Public Health Service Act and who are currently licensed to practice nursing are eligible for enrollment.

3. The policies for the recruitment and selection of students shall be consistent with the requirements of the sponsoring institution and developed in cooperation with the faculty responsible for conducting the training. Admission criteria shall take into consideration the educational background and work experience of applicants.

D. *Length of program.* A nurse practitioner training program shall be a minimum of one academic year (or nine months) in length and shall include at least four months (in the aggregate) of classroom instruction.

E. *Curriculum.* 1. A nurse practitioner training program shall be a discrete program consisting of classroom instruction and faculty-supervised clinical practice designed to teach registered nurses the knowledge and

skills needed to perform the functions of a nurse practitioner specified in the definition of that term as set forth in these guidelines. The curriculum shall be developed and implemented cooperatively by nurse educators, physicians, and appropriate representatives of other health disciplines. The following are examples of broad areas of program content which should be included: Communications and interviewing (history taking); basic physical examination including basic pathophysiology; positive health maintenance; care during acute and chronic phases of illness; management of chronic illness; health teaching and counseling; role realignment and establishment of collaborative roles with physicians and other health care providers; and community resources. The program content, both classroom instruction and clinical practice, should be developed so that the nurse practitioner is prepared to provide primary health care as defined in these guidelines.

2. The curriculum may include a preceptorship, in which the student is assigned to a designated preceptor (a nurse practitioner or physician) who is responsible for teaching, supervising, and evaluating the student and for providing the student with an environment which permits observation and active participation in the delivery of primary health care. If a preceptorship is included, it shall be under the direction and supervision of the faculty.

F. *Faculty qualifications.* A nurse practitioner training program shall have a sufficient number of qualified nursing and medical (and other related professional) faculty with academic preparation and clinical expertise relevant to their areas of teaching responsibility and with demonstrated ability in the development and implementation of educational programs.

G. *Resources.* 1. A nurse practitioner training program shall have available sufficient educational and clinical resources including a variety of practice settings, particularly in ambulatory care.

2. Clinical practice facilities shall be adequate in terms of space and equipment, number of clients, diversity of client age and need for care, number of students enrolled in the program, and other students using the facility for training purposes.

3. Where the institution or organization conducting the program does not provide the clinical practice settings itself, it shall provide for such settings through written agreements with other appropriate institutions or organizations.

4. Where the institution or organization conducting the program is other than a school of nursing, medicine, or public health, it shall provide for sufficient educational expertise through written agreements with a collegiate school of nursing, school of medicine, or school of public health.

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TUESDAY, NOVEMBER 29, 1977

PART IV

DEPARTMENT OF THE INTERIOR

Geological Survey

■

COAL MINING OPERATIONS ON FEDERAL LANDS

Proposed Rulemaking

[4310-31]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 211]

COAL MINING OPERATING REGULATIONS

Mining on Federal Lands

AGENCY: Geological Survey, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of the proposed rulemaking is to modify the Department's regulations to (1) require that surface and underground coal mining operations conducted on Federal lands conform to the initial environmental protection performance standards and requirements published pursuant to the Surface Mining Control and Reclamation Act of 1977; (2) establish procedures for modifying existing State-Federal cooperative agreements; (3) provide for inspections of coal mining operations on Federal lands by authorized representatives of the Office of Surface Mining Reclamation and Enforcement; and (4) provide for the assessment of civil penalties for violations of the Surface Mining Control and Reclamation Act.

DATE: Interested persons may submit written comments on the proposed regulations on or before December 29, 1977.

ADDRESS: Comments should be addressed to Director, U.S. Geological Survey, U.S. Department of the Interior, Reston, Va. 22092. Comments will be available for public review at the above address from 7:45 a.m. to 4:15 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT:

Mr. Tom Leshendok, Branch of Mining Operations, Conservation Division, U.S. Geological Survey, Reston, Va. 22092, 703-860-7506.

Mr. Carl Close, Regulatory Program Work Group, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4237.

SUPPLEMENTARY INFORMATION: The purpose of this proposed rulemaking is to modify the existing Federal coal mining operating regulations of Part 211 of this title to comply with the initial requirements of the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87 (hereafter referred to as the Act). The initial requirements of the Act were published as proposed rules for the Office of Surface Mining Reclamation and Enforcement in the FEDERAL REGISTER (September 7, 1977, 42 FR 44920). Section 523 of the Act requires that the Secretary implement a permanent Federal lands program no later than August 3, 1978, by incorporating all the requirements of the Act into any Federal lease and by providing for cooperative agreements with the States. This proposed rulemaking is the initial segment of the Federal lands program.

1. SCOPE AND PURPOSE

The Department proposes to apply the initial regulations promulgated under the Act and contained in Parts 715 and 716 of this title, General and Special Performance Standards, to all coal mining operations on Federal lands in all States including Alaska.

This is accomplished by adding § 211.1 (g) and (h) to provide for the same compliance timetable applicable to coal mining operations regulated by a State. This will allow coal mining operations that have "checkerboarded" land ownership to comply essentially with one set of regulations during the initial regulatory period. Mining operations must continue to comply with the regulations in this part which are not modified.

The alternate to this proposed change—differing standards depending on the existence of a State cooperative agreement—was rejected by the Department as inequitable.

2. DEFINITIONS

The existing regulations in this part incorporate concepts of mining and reclamation plans and use the term "operator," while the Act adopts the permit concept and uses the term "permittee." By incorporating the Act's initial performance standards into these regulations, the Department proposes to redefine "operator" to include "permittee." Thus, the term "operator" and "permittee" will be used synonymously.

The regulations of the Act are administered by a regulatory authority, while the 30 CFR 211 regulations are administered by the Director of the Geological Survey, through the Division Chief, the Conservation Manager, and the Mining Supervisor. By incorporating the Act's performance standards into these regulations, the Department proposes to include in the 30 CFR 211 regulations for the initial regulatory program of the Act, a definition of the term "Regulatory Authority" which is used synonymously with "Director," "Conservation Manager," and "Mining Supervisor."

3. MINE PLANS

The Department proposes that all mine plans for coal mining operations on Federal lands which are approved on or after February 3, 1978, shall include the enumerated requirements of 30 CFR 715 and 716. Existing coal mining operations on Federal lands must comply with the initial 30 CFR 715 and 716 requirements on or after May 3, 1978. However, new mine plans will not be required for existing operations. The Mining Supervisor, in consultation with the Office of Surface Mining and any State with a cooperative agreement, will review all mine plans and may require additional material and data from the operator or if appropriate, the revision of a mining plan in order to assure compliance with 30 CFR 715 and 716 requirements.

Coal mining operations in States with cooperative agreements must conform to any State requirement to submit additional information to demonstrate compliance with the initial 30 CFR 715 and 716 requirements. At a later date, the Department will propose procedures for permit applications on Federal lands.

4. PERFORMANCE STANDARDS

The Department proposes to delete certain of the performance standards in § 211.40 during the initial regulatory program to substitute the more stringent general and special initial performance standards of 30 CFR 715 and 716, with the exception where § 211.40 contains requirements not included in 30 CFR 715 and 716. An example is the requirement in § 211.40(a)(1) that operators reclaim affected lands as contemporaneously as practicable. This standard would not otherwise be applicable during the initial regulatory program. Failure to continue required compliance with this and other similar standards on Federal lands during the initial Federal regulatory program would result in a diminution of the environmental protection now afforded under existing regulations.

The Department is considering modification of the expression "minimize, control or prevent" to conform more fully with the provisions of the Act. Comments on this alternative are invited.

5. UNDERGROUND COAL MINING OPERATIONS

The Department proposes to amend the existing regulations in 30 CFR 211.40 to require compliance with the requirements in 30 CFR 716 which relate to the surface effects of underground coal mining.

6 INSPECTIONS

To implement the Federal inspection provisions of Section 517 of the Act, the Department proposes to amend section 211.70 to require that operators provide access to operations for authorized representatives of the Office of Surface Mining Reclamation and Enforcement for inspections and investigations to determine whether operations are in compliance with the Surface Mining Control and Reclamation Act. The Mining Supervisor will continue to inspect under the provisions of § 211.70 during the initial Federal lands program.

7. ENFORCEMENT

The Department proposes to amend § 211.72, Enforcement of Orders, to provide that an authorized representative of the Office of Surface Mining Reclamation and Enforcement shall have the authority to order a cessation of mining or reclamation operations if in the course of an inspection or investigation he finds conditions, practices, or violations of the initial performance standards in Parts 715 and 716 of this title which create an imminent danger to the public health or safety, or conditions or practices which can be expected to cause significant environmental harm. The Mining Supervisor will continue to exer-

cise exiting authority under the provisions of § 211.72 during the initial Federal lands program.

8. CIVIL PENALTIES

The Department proposes to implement the civil penalty provisions of Section 518 of the Act by amending Part 211 to provide that all operators on Federal lands subject to the provisions of Part 211 may be assessed civil penalties by the Office of Surface Mining Reclamation and Enforcement pursuant to the procedures in Part 273 of Title 30.

9. COOPERATIVE AGREEMENTS

Section 211.75(a) contains a procedure for the adoption by the Secretary of more stringent State reclamation standards. Previously, pursuant to this provision, the Secretary adopted certain standards of the State of Montana (42 FR 30175) and of the State of Wyoming (42 FR 53793).

Section 211.75(b) contains a procedure whereby States may enter into cooperative agreements with the Department to provide for State administration and enforcement of reclamation standards on Federal surface coal mining operations in the State. Pursuant to this provision, cooperative agreements with six States were approved: Colorado (June 28, 1977, 42 FR 3277), Montana (June 13, 1977, 42 FR 30175), New Mexico (April 5, 1977, 42 FR 18065), North Dakota (April 5, 1977, 42 FR 18071), Utah (April 5, 1977, 42 FR 18068), and Wyoming (January 19, 1977, 42 FR 3642).

Section 523(c) of the Act provides that existing cooperative agreements, to have continuing effect, must assure that mining operations on Federal land will be in compliance with the performance standards of Parts 715 and 716 of this title. Existing agreements not amended by February 3, 1978, will terminate, in which event the Department will resume sole enforcement responsibility during the initial period.

The Department proposes to amend § 211.75 of this part to require that any State which desires to continue an existing cooperative agreement in effect notify the Department of its willingness to modify the agreement so as to comply with the requirements of the Federal lands program.

10. OTHER INFORMATION

The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and OMB Circular A-107.

References are made throughout this proposed rulemaking to 30 CFR 715 and 716. Those regulations were published in proposed form on September 7, 1977, and have not yet been published as final rules. Such publication is expected in the near future. These proposed amendments to 30 CFR Part 211 will be revised prior to final rules to incorporate substantive and organizational changes adopted in the final rulemaking for the initial regulatory program.

Pursuant to section 702(d) of the Act publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The principal authors of this proposed rulemaking are Mr. C. L. Martin and Mr. William Gershuny, Office of the Solicitor, U.S. Department of the Interior, (202) 343-5207, and Mr. Tom Leshendok, Branch of Mining Operations, U.S. Geological Survey, (703) 860-7506.

Under the authority delegated to the Secretary of the Interior by the Mineral Leasing Act of 1920, as amended, it is proposed to amend Part 211, Chapter II, Title 30 of the Code of Federal Regulations as set forth below:

1. Section 211.1 is amended by adding new paragraphs (g) and (h) to read as follows:

§ 211.1 Scope and purpose.

* * * * *

(g) All surface and underground coal mining operations on Federal lands which are approved by the Mining Supervisor on or after February 3, 1978, shall comply with the General Performance Standards of 30 CFR 715 and the Special Performance Standards of 30 CFR 716 which apply to the operation. All surface and underground coal mining operations on Federal lands, from which overburden and coal seam have not been removed prior to May 3, 1978, shall on or after May 3, 1978, comply with the General Performance Standards of 30 CFR 715 and the Special Performance Standards of 30 CFR 716 which apply to the operations.

(h) All surface coal mining operations on Federal lands in Alaska from which coal has been mined on or after August 3, 1976, shall, after May 3, 1978, comply with all performance standards in 30 CFR 715 and 716 subject to the procedures in § 716.6.

§ 211.2 [Amended]

2. Section 211.2 is amended as follows:

(A) Remove all paragraph designations from the existing definitions which are retained.

(B) The following definitions are removed:

Acid or toxic producing materials
Approximate original contour
Compaction
Impoundment
Overburden
Road
Significant vegetation
Spoil
Surface Owner
Topsoil
Valley Floors
Waste

(C) The following definitions are added alphabetically to read as follows:

Acid drainage. See § 710.5 of this title.

Acid forming materials means earth materials that contain sulfide mineral or other materials which, if exposed to air, water, or weathering processes, will cause acids that may create acid drainage.

Act. See § 700.5 of this title.

Alluvial valley floors means unconsolidated streamlaid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation, and windblown deposits.

Approximate original contour means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain with all highwalls and spoil piles eliminated. Water impoundments may be permitted where the regulatory authority determines that they are in compliance with § 715.17 of this chapter.

Aquifer. See § 710.5 of this title.

Auger mining. See § 710.5 of this title.

Coal. See § 700.5 of this title.

Combustible material. See § 710.5 of this title.

Compaction means the reduction of pore spaces among the particles of soil or rock, generally done by running heavy equipment over the earth materials.

Disturbed area. See § 710.5 of this title.

Diversion. See § 710.5 of this title.

Downslope. See § 710.5 of this title.

Embankment. See § 710.5 of this title.

Federal lands. See § 700.5 of this title.

Groundwater. See § 710.5 of this title.

Highwall. See § 710.5 of this title.

Hydrologic balance. See § 710.5 of this title.

Hydrologic regime. See § 710.5 of this title.

Impoundment means a closed basin formed naturally or artificially built which is dammed or excavated for the retention of water, sediment, or waste.

Intermittent or perennial stream. See § 710.5 of this title.

Leachate. See § 710.5 of this title.

Monitoring. See § 700.5 of this title.

Noxious plants. See § 710.5 of this title.

Office. See § 700.5 of this title.

Operator means a lessee, licensee, or one conducting operations on lands under the authority of the lessee, or licensee. In addition, the term "operator" includes a *person* holding a permit as these terms are defined in § 700.5 of this title. During the initial regulatory program applicable to this part the term Operator includes the term "permittee" as used in Parts 715 and 716 of this title.

Outslope. See § 710.5 of this title.

Overburden means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil which overlies the coal to be mined.

Permit. See § 700.5 of this title.

Person. See § 700.5 of this title.

Premining land use. See § 710.5 of this title.

Productivity. See § 710.05 of this title.

Recharged capacity. See § 710.5 of this title.

Recurrence interval. See § 710.5 of this title.

Regulatory Authority means the State regulatory authority where the State is administering the Act under an approved State program or the Secretary where the Secretary is administering the Act under a Federal Program. All references to the term "Regulatory Authority" in the initial performance standards in parts 715 and 716 shall be construed to include the term Director, Geo-

logical Survey, Conservation Manager, or Mining Supervisor.

Roads means access and haul roads constructed, used, reconstructed, improved, or maintained for use in surface coal mining and reclamation operations, including use by coal-hauling vehicles leading to transfer, processing, or storage areas. The term includes any such road used and not graded to approximate original contour within 45 days of construction other than temporary roads used for topsoil removal and coal haulage roads within the pit area. Roads maintained with public funds such as all Federal, State, and county roads are excluded.

Runoff water. See § 710.5 of this title.

Sediment. See § 710.5 of this title.

Settling pond. See § 710.5 of this title.

Slope. See § 710.5 of this title.

Soil horizons. See § 710.5 of this title.

Spoil means overburden that has been removed during surface mining.

Stabilize. See § 710.5 of this title.

Surface mining operations. See § 700.5 of this title.

Surface water. See § 710.5 of this title.

Suspended solids. See § 710.5 of this title.

Topsoil means the A soil horizon and underlying unconsolidated materials including those portions of the B and C soil horizons that have properties favorable for producing vegetation.

Toxic-forming materials means earth materials or wastes which, if acted upon by air, water, or weathering processes, may produce chemical or physical conditions in soils or water that are determental to biota or uses of water.

Toxic mine drainage. See § 710.5 of this title.

Watercourse. See § 710.5 of this title.

Water tables. See § 710.5 of this title.

3. Section 211.10 is amended by the addition of the following paragraphs (e) and (f) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) Mine plans for surface and underground coal mining operations that are approved on or after February 3, 1978, shall include a description of methods of operation and measures by which the operator intends to comply with the obligations and requirements of the General Environmental Protection Performance Standards of 30 CFR 715 and applicable Special Performance Standards of 30 CFR 716.

(f) Mining plans covering operations existing on or after May 3, 1978, shall be reviewed by the Mining Supervisor to determine compliance with the initial performance standards found in 30 CFR 715 and 716. If the Mining Supervisor so determines, the operator shall prepare an analysis and, if necessary, a revision of the approved plan showing how the operator will achieve compliance with 30 CFR 715 and 716.

4. Section 211.40 is revised by substituting for certain of the specific performance standards of this Part the initial environmental protection performance standards of 30 CFR 715 and 716. Title 30 CFR 211.40 is revised to read as follows:

§ 211.40 Operating and reclamation standards.

(a) *Performance standards for surface mines.* The following performance standards shall be applicable to all coal exploration, development, mining, preparation, handling, and reclamation operations on the surface of land subject to this Part: (1) The operator shall:

(i) Reclaim affected lands pursuant to his approved plan, as contemporaneously as practicable with operations.

(ii) Comply with the requirements of § 715.13 of this title for reclaiming the land to an approved land use.

(2) The operator shall comply with the requirements of § 715.14 of this title for backfilling, grading, and restoring approximate original contour.

(3) The operator shall stabilize and protect all surface areas, including spoil piles, affected by the coal mining and reclamation operation, to effectively control slides, erosion, subsidence, and attendant air and water pollution.

(4) The operator shall comply with the provisions of § 715.16 of this title for replacing topsoil.

(5) The operator shall utilize water impoundments, water retention facilities, dams, or settling ponds only pursuant to an approved plan and in compliance with the requirements of §§ 715.17 and 715.18 of this title and shall ensure that:

(i) Such facility is adequate for its intended purposes, and the quality and quantity of impounded water will be suitable for its intended use.

(ii) Such facility is designed, located, built, used, and maintained in accordance with sound engineering standards and practices, and applicable Federal and State laws and regulations to ensure that such facilities will have necessary stability with an adequate margin of safety.

(iii) Final grading will provide adequate safety and access for proposed or reasonably anticipated water users.

(iv) Such facilities will not have a significant adverse impact on the water resources utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses; provided, however, that this subparagraph shall not be deemed or construed to increase or diminish any property rights to any water held by any person.

(v) No mine or processing waste is used in the construction of such facilities unless authorized in the approved plan and in compliance with §§ 715.17 and 715.18 of this title.

(6) The operator shall cover or plug all auger mine holes with noncombustible and impervious material and where necessary to minimize, control, or prevent harmful drainage.

(7) The operator shall comply with the requirements of §§ 715.17 of this title relating to the protection of the hydrologic system.

(8) The operator shall: (i) Treat or dispose of all rubbish and noxious substances in a manner designed to minimize, control, or prevent air and water pollution and the hazards of ignition and combustion.

(ii) Dispose of all waste resulting from the mining and preparation of coal in a manner designed to minimize, control, or prevent air and water pollution and hazards of ignition and combustion. Where surface disposal of solid wastes in areas other than the mine workings or other excavations has been authorized in the approved plan, stabilize such waste including, where necessary, constructing waste piles in compacted layers with the use of noncombustible and impervious materials, shape waste piles to be compatible with the requirements of the Act, cover with topsoil or other suitable material in accordance with paragraph (a)(4) of this section, and revegetate in accordance with paragraph (a)(13) of this section. All impoundments of liquid wastes shall comply with the requirements of paragraph (a)(5) of this section. Waste containing coal in such quantity that it may be later separated from the waste by washing or other means shall be stored separately.

(iii) Comply with all other requirements of §§ 715.14 and 715.15 of this title.

(9) Except as provided herein, the operator shall not conduct excavation, drilling, or blasting operations within 500 feet of an active or abandoned underground mine. Where it can be established, by certified maps or inspection of such an underground mine, that such activities may be conducted without danger of interference with, or penetration of, an underground mine, they may be authorized in an approved plan to be conducted up to but not less than 25 feet from such underground mine provided that nothing in this paragraph shall preclude daylighting or similar surface coal mining activties intended to improve resource recovery, abate water pollution, or eliminate public hazards resulting from such underground mines.

(10) The operator shall comply with the blasting requirements of § 715.19 of this title.

(11) The operator shall design to applicable standards, construct, maintain, and, when no longer necessary and unless otherwise authorized in an approved plan, remove all roads, pipelines, powerlines, and similar utility access facilities associated bridges, culverts, and ditches, into and across the site of operations, in a manner that will minimize, control, or prevent erosion, siltation, and pollution of water to the requirements of § 715.17(1)(1) through (3) of this title, and minimize, control, or prevent fugitive dust, and damage to fish or wildlife or their habitat and public or private property.

(12)(i) The operator shall comply with the requirements of § 715.17(1)(2) of this article for surfacing and constructing roads. (ii) No access roads will be constructed unless:

(A) The operator shall have first submitted a surveyed profile accompanied by typical cross sections of the road and ditches, showing pipe, entrance and exit channels, and sediment control structures or configurations to be used on the road to meet performance standards; and

(B) The location shall have been marked, inspected, and approved by the Mining Supervisor in consultation with

the appropriate authorized officer and the surface owner if other than the United States.

(13)(i) The operator shall comply with the revegetation requirements of § 715.20 of this title.

(ii) The operator's responsibility and liability under his performance bond for revegetation of each planting area shall extend until such time as the appropriate authorized officer, in consultation with the Mining Supervisor and the surface owner if other than the United States, determines that successful revegetation in compliance with paragraph (a)(13)(i) of this section has occurred; provided, however, that this period shall extend for a minimum of 5 full years after the first planting and for a total period of liability not to exceed 10 years from the first planting; and further provided, that,

(A) Where the appropriate authorized officer, in consultation with the Mining Supervisor, the surface owner, if other than the United States, and the operator, determines that natural conditions such as annual precipitation, soil characteristics, and native vegetation are stable and favor rapid revegetation and that revegetation pursuant to paragraph (i) of this section is likely to occur before the expiration of such minimum period, such minimum period will not apply with respect to some or all of the lands included in such lease, permit, or license; and

(B) Where during any such minimum period such authorized officer, in consultation with the Mining Supervisor, the surface owner, if other than the United States, and the operator, determines that natural conditions such as annual precipitation and soil characteristics are sufficiently unstable so as to favor only slow and uncertain revegetation, he may recommend to the Mining Supervisor that the liability of the operator be extended for a period up to 5 years beyond the period initially established, if the financial liability that would be incurred by the operator as a result is reasonably commensurate with the increased probability of successful revegetation.

(iii) During the relevant period of liability, the Mining Supervisor and the appropriate authorized officer shall jointly inspect and evaluate the revegetated area.

(14) The operator shall: (i) Except as provided in paragraph (ii) hereof, allow public access to and upon Federal lands subject to his lease, permit, or license for all lawful and proper purposes, except where such access would unduly interfere with his authorized use.

(ii) Provide warning signs, fencing, flagmen, barricades, and other safety and protective measures as may be necessary to regulate public access, vehicular traffic, and wildlife or livestock grazing in all areas of active operations, including lands undergoing reclamation;

(A) To protect the public, wildlife and livestock from hazards associated with such operations; and

(B) To protect revegetated areas from unplanned and uncontrolled grazing.

(15) Coal storage areas shall be designed and maintained so as to eliminate fire hazards from spontaneous combustion and other accidental ignition. If a coal seam exposed by surface mining or an accumulation of slack coal or combustible waste becomes ignited during the term of a lease, the operator shall immediately take all necessary steps to extinguish the fire.

(16) Upon the completion of temporary or permanent abandonment of mining operations in all or any part of a strip pit, the face of the coal shall be covered with 5 feet of nontoxic and noncombustible material that will effectively protect the coalbed from becoming ignited.

(17) The driving of any underground openings by auger or other methods from any strip pit shall not be undertaken except as specifically approved by the Mining Supervisor in an approved plan.

(18) The operator shall comply with provisions of §§ 715.11 and 715.12 of this title for availability of authorizations to operate and location of markers and signs.

(19) Operators of surface coal mining operations that are conducting mining operations on natural slopes that are defined as steep slopes shall comply with the regulations of § 716.2 of this title.

(20) Operators of surface coal mining operations that remove entire coal seams running through the upper fraction of a mountain ridge or hill (mountaintop removal) shall comply with the requirements of § 716.3 of this title.

(21) Operators of special bituminous surface coal mining operations that are located west of the 100th meridian west longitude as defined under § 716.4(a) shall comply with the requirements of § 716.4 of this title.

(22) Operators of anthracite coal mine operations must comply with the requirements of § 716.5 of this title.

(23) Operators of surface coal mining operations conducted on land that is considered to be prime farmland pursuant to § 716.7(b) shall comply with the special requirements of § 716.7 of this title. The Mining Supervisor, in consultation with the surface management agency and the Office of Surface Mining, shall obtain a determination of prime farmlands pursuant to § 716.7 of this title for operations on Federal lands prior to the appropriate date in § 211.1(g) of this Part.

(24) Operators of surface coal mining operations conducted on lands with alluvial valley floors shall comply with the applicable provisions of § 716.17(j) of this title.

(b) *Performance standards for underground mines.* The following performance standards shall be applicable to all coal exploration, development, mining, preparation, handling and reclamation operations for the surface effects of underground mines on land subject to this part. These standards, in addition to §§ 211.30, 211.31, 211.32, 211.33, and 211.35, shall apply to underground mining operations on Federal lands.

(1) Operators shall comply with the requirements of § 715.11(b) of this title, Authorization to Operate.

(2) Operators shall comply with the requirements of § 715.12(a) of this title, Sign and Marker Specifications; § 715.12(b), Mine and Permit Identification Signs; and § 715.12(e), Blasting Signs.

(3) Operators shall comply with the requirements of § 715.14 of this title, Backfilling and Grading, except the standards regarding mountaintop removal and thin and thick restored overburden. These requirements apply only to the surface area disturbed to provide access to the mine and such other surface areas disturbed during the mining operation as are identified by the regulatory authority. The requirements apply at the conclusion of mining operations.

(4) Operators shall comply with the requirements of § 715.15 of this title, Disposal of Spoil and Waste Materials.

(5) Operators shall comply with the requirements of § 715.17 of this title, Protection of the Hydrologic System, in regard to surface discharges and surface areas that are disturbed except that requirements of § 715.17 (h) and (j) shall not apply.

(6) Operators shall comply with the requirements of § 715.18 of this title, Dams Constructed of Refuse Materials.

(7) Operators shall comply with the requirements of § 715.19 of this title, Use of Explosives, in regard to the use of explosives used during surface operations.

(8) Operators shall comply with the requirements of § 715.20 of this title, Revegetation, of surface areas disturbed. The requirements apply at the conclusion of mining operations.

(9) The operator shall reclaim affected lands, pursuant to his approved plan, to a condition capable of supporting all practicable uses which such lands were capable of supporting immediately prior to any exploration or mining, or equal, better or higher uses that have been approved in accordance with this subpart.

(10) The operator shall stabilize and protect all surface areas affected by the coal mining and reclamation operation to effectively control slides, erosion, subsidence, and attendant air and water pollution. The operator shall remove topsoil separately for replacement on the area pursuant to the approved plan.

(11) Coal storage areas shall be designed and maintained so as to eliminate fire hazards from spontaneous combustion and other accidental ignition. If a coal seam exposed by surface mining an accumulation of slack coal, or combustible waste becomes ignited during the term of a lease, the operator shall immediately take all necessary steps to extinguish the fire.

(12) The operator shall ensure that water impoundments, water retention facilities, dams, or settling ponds have been set forth in an approved plan, and ensure that:

(i) Such facilities are adequate for their intended purposes, and the quality

and quantity of impounded water will be suitable for its intended use.

(ii) Such facility is designed, located, built, used, and maintained in accordance with sound engineering standards and practices an applicable Federal and State laws and regulations to ensure that such facilities will have necessary stability with an adequate margin of safety.

(iii) Final grading will provide adequate safety and access for proposed or reasonably anticipated water users.

(iv) Such facilities will not have a significant adverse impact on the water resources utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses; provided, however, that this subparagraph shall not be deemed or construed to increase or diminish any property rights to any water held by any person.

(13) The operator shall: (i) Except as provided in paragraph (ii) hereof, allow public access to and upon Federal lands subject to this lease, permit, or license for all lawful and proper purposes, except where such access would unduly interfere with his authorized use.

(ii) Provide warning signs, fencing, flagmen, barricades, and other safety and protective measures as may be necessary to regulate public access, vehicular traffic, and wildlife or livestock grazing in all areas of active operations, including lands undergoing reclamation:

(A) To protect the public, wildlife and livestock from hazards associated with such operations; and

(B) To protect revegetated areas from unplanned and uncontrolled grazing.

(14) The driving of any underground openings by auger or other methods from any strip pit shall not be undertaken except as specifically approved by the Mining Supervisor in an approved plan.

(15) The operator shall: (i) Treat or dispose of all rubbish and noxious substances in a manner designed to minimize, control, or prevent air and water pollution and the hazards of ignition and combustion.

(ii) Dispose of all waste resulting from the mining and preparation of coal in a manner designed to minimize, control, or prevent air and water pollution and hazards of ignition and combustion. Where surface disposal of solid wastes in areas other than the mine workings or other excavations has been authorized in the approved plan, stabilize such waste including, where necessary, constructing waste piles in compacted layers with the use of incombustible and impervious materials; shape waste piles to be compatible with the natural surroundings and terrain; cover with topsoil or other suitable material in accordance with this section, and revegetate in accordance with this section. Waste containing coal in such quantity that it may be later separated from the waste by washing or other means shall be stored separately.

(16) (i) The operator shall design to applicable standards, construct, maintain, and, when no longer necessary and unless otherwise authorized in an approved plan, remove all roads, pipelines, powerlines, and similar utility access facilities and associated bridges, culverts, and ditches, into and across the site of operations, in a manner that will minimize, control, or prevent erosion, siltation, and pollution of water pursuant to the requirements of § 715.17(1) (1) through (3) of this title, and minimize, control, or prevent fugitive dust, damage to fish or wildlife or their habitat, and public or private property.

(ii) No access roads will be constructed unless:

(A) The operator shall have first submitted a surveyed profile accompanied by typical cross sections of the road and ditches, showing pipe, entrance and exit channels, and sediment control structures and other structures or configurations to be used on the road to meet performance standards; and

(B) The location shall have been marked, inspected, and approved by the Mining Supervisor, in consultation with the appropriate authorized officer and the surface owner, if other than the United States.

(17) (i) The operator's responsibility and liability under his performance bond for revegetation of each planting area shall extend until such time as the appropriate authorized officer, in consultation with the Minng Supervisor and the surface owner if other than the United States, determines that successful revegetation has occurred; provided, however, that this period shall cover a minimum of 5 full years after the first planting and a total period of liability not to exceed 10 years from the first planting; and further provided that:

(A) Where the appropriate officer, in consultation with the Mining Supervisor, the surface owner, if other than the United States, and the operator determines that natural conditions such as annual precipitation, soil characteristics, and native vegetation are stable and favor rapid revegetation and that revegetation pursuant to subparagraph (i) of this subsection is likely to occur before the expiration of such minimum period, he may specify in the lease, permit, or license that such minimum period will not apply with respect to some or all of the lands included in such lease, permit, or license; and

(B) Where during any such minimum period, such authorized officer, in consultation with the Mining Supervisor, the surface owner of other than the United States, and the operator, determines that natural conditions such as annual precipitation and soil characteristics are sufficiently unstable so as to favor only slow and uncertan revegetation, he may recommend to the Mining Supervisor that the liability of the operator be extended for a period of up to 5 years beyond the period initially established, if the financial liability that would be incurred by the operator as a result is reasonably commensurate with the increased probability of successful revegetation.

(ii) During the relevant period of liability, the Mining Supervisor and the appropriate authorized officer shall jointly inspect and evaluate the revegetated areas.

5. Section 211.70 is revised to read as follows:

§ 211.70 Inspections.

(a) The operator shall provide access and means for the Mining Supervisor to inspect or investigate the operation to determine whether it is in compliance with all applicable laws, regulations, and orders; the terms and conditions of the lease, permit or license; and the requirements of any approved plan.

(b) The operator shall provide access and means at all reasonable times for any authorized representative of the Office of Surface Mining Reclamation and Enforcement to inspect or investigate the operation pursuant to Part 721 of this Title to determine whether it is in compliance with the Act.

6. Section 211.72 is amended by adding a new paragraph (d) to read as follows:

§ 211.72 Enforcement of orders.

* * * * *

(d) In addition to the procedures set forth in paragraphs (a), (b), and (c) of this section, all mining operations subject to the regulations in this part shall be subject to the enforcement procedures set forth in Part 722 of this title.

7. A new § 211.78 is added to read as follows:

§ 211.78 Civil penalties.

The operator of any coal mining operation subject to the provisions of this part may be assessed civil penalties for violations of the Surface Mining Control and Reclamation Act pursuant to the procedures in section 723 of this title.

§ 211.74 [Removed]

8. Section 211.74 is deleted.

9. Section 211.75 is revised to read as follows:

§ 211.75 Applicability of State Law.

(a) On the effective date of this part, and from time to time thereafter, the Secretary may direct a prompt review of State laws and regulations in effect or adopted and due to come into effect, relating to reclamation of lands disturbed by surface mining of coal and the surface effects of underground mining of coal in each State in which Federal coal has been leased, permitted, or licensed. If, after such review, the Secretary determines that the requirements of the laws and regulations of any such State afford general protection of environmental quality and values at least as stringent as would occur under exclusive application of this part, he shall, by rulemaking under the provisions of section 501 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201), direct that the requirements of such State laws and regulations thereafter be applied as conditions upon the approval of any proposed exploration or mining plan, unless (i) the Secretary determines that such application of the requirements of such laws and regulations would unreasonably and substantially prevent the mining of Federal coal

in such State, or (ii) the Secretary determines that such laws and regulations are inconsistent with the Act. In any such determination, the Secretary will consult in advance with the Governor of the State involved.

(b) On the effective date of this Part, the Secretary will direct representatives of the Department to consult with appropriate representatives of each State or a number of States for the purpose of formulating and entering into agreements to provide for a joint Federal-State program with respect to surface coal mining reclamation operations for administrative and enforcement purposes. Such agreements shall, wherever possible, provide for State administration and enforcement of such programs, provided that Federal interests are protected. Any such agreement shall be entered into by rulemaking and shall have as its principal purpose the avoiding of duality of administration and enforcement of reclamation laws governing surface coal mine reclamation operations.

(c) (1) Pursuant to section 523 of the Surface Mining Control and Reclamation Act of 1977, any State with a cooperative agreement existing on August 3, 1977, may may elect to continue regulation on Federal lands within the State prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully incorporate the initial regulatory procedures set forth in section 502 of the Surface Mining Control and Reclamation Act of 1977.

(2) The Governor of any State that wishes to continue the cooperative agreement shall notify the Secretary in writing of the State's intent to modify the cooperative agreements. The notice of intent to modify the cooperative agreements should be sent prior to December 31, 1977, and the modification to the existing cooperative agreements agreed to prior to February 3, 1978.

(3) Upon receipt of the State's notice of intent, the Secretary will direct representatives of the Department to consult with appropriate representatives of each State for the purpose of modifying the cooperative agreements. The modified cooperative agreements must take into account the existing agreements and, at a minimum, require compliance with the initial environmental performance standards of this part, 30 CFR 211.40 and 30 CFR 715 and 716, conflict of interest regulations, 30 CFR 705, and mining plan requirements, 30 CFR 211.10.

Dated: November 23, 1977.

JOAN M. DAVENPORT,
Assistant Secretary,
Energy and Minerals.

[FR Doc.77-34225 Filed 11-28-77;8:45 am]

federal register

TUESDAY, NOVEMBER 29, 1977

PART V

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

■

REPORTING AND DISCLOSURE REQUIREMENTS

[4510–29]

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Redesignation of Interim Regulation

AGENCY: Department of Labor.

ACTION: Redesignation of Regulation § 2520.104a–5 to § 2520.104a–7.

SUMMARY: This document redesignates interim and proposed regulation § 2520.104a–5, "Summary of material modifications", published on July 19, 1977 (42 FR 37178) as § 2520.104a–7. The redesignation is necessary because two regulations have been issued under the same section number.

DATE: This redesignation takes effect November 29, 1977.

SUPPLEMENTARY INFORMATION: On July 19, 1977, certain regulations relating to the requirement to report and disclose a summary plan description of an employee benefit plan were published in the FEDERAL REGISTER (42 FR 37178). Proposed § 2520.104a–5, "Summary of material modifications", which was effective on an interim basis, imposed a new requirement on plans to file with the Secretary a summary of material modifications in plan terms or changes in information under section 102(b) of the Act. However, the section number assigned this regulation had already been assigned to a section of the interim and proposed annual reporting regulations published on August 3, 1976 (41 FR 32522).

To eliminate the designation of two different regulations under the same section number, interim and proposed § 2520.104a–5, "Summary of material modifications", published on July 19, 1977 (42 FR 37178) is hereby redesignated as § 2520.104a–7.

Signed at Washington, D.C., this 28th day of November, 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc.77–34375 Filed 11–28–77;10:44 am]

[4510-29]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[29 CFR Part 2520]

RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Annual Report Requirements, Proposed Regulations

AGENCY: Department of Labor.

ACTION: Proposed regulations.

SUMMARY: This document modifies proposed regulations (which were also temporarily effective) on annual reporting under the Employee Retirement Income Security Act of 1974 (the Act) and proposes the rescission of a final regulation. The proposals are intended to reduce the reporting burden on plans with respect to the reporting of assets held for investment, reportable transactions and modifications in the plan and other changes affecting plan participants and beneficiaries. If adopted, the regulations will affect all plans subject to the reporting requirements of the Act.

DATES: These regulations, if adopted, will be effective for plan years beginning in 1977 and thereafter. Comments concerning the proposed regulations are due on or before December 27, 1977.

ADDRESSES: Interested persons are invited to submit written data, views or arguments concerning any part or all of the proposed regulations contained in this document to "Proposed Annual Reporting Regs.", Room C-4526, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefits Programs, U.S. Department of Labor, Washington, D.C. 20216. 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. 20216.

FOR FURTHER INFORMATON CONTACT:

John Christensen, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, 202-523-8684.

SUPPLEMENTARY INFORMATION: On August 3, 1976, regulations relating to the annual reporting requirements under the Act were published in the FEDERAL REGISTER (41 FR 32522). These regulations were both temporary regulations effective immediately for plan years beginning in 1975 and proposed regulations for final adoption. On May 20, 1977, in a notice published in the FEDERAL REGISTER (42 FR 25870), the Department requested further comments on the regulations and the 1976 annual report forms.

On July 19, 1977, the Department published temporary and final regulations with respect to the summary plan description which must be disclosed to plan participants and beneficiaries and filed with the Department (42 FR 37178).

Based, in part, on the views of commentators regarding the annual reporting and summary plan description regulations, and, in part, on the Department's decision to attempt to reduce certain reporting obligations, the Department has decided to propose the following changes.

The proposed changes in § 2520.103-6 would reduce the reporting of reportable transactions by excluding certain categories of short term investment transactions. The entire proposed § 2520.103-6, as published on August 3, 1976, is reprinted for convenience, with additions indicated in arrows and deletions indicated in brackets.

Under proposed new § 2520.103-11, certain categories of investments acquired and/or disposed of by a plan within the plant year would not be reported in the schedule of assets held for investment. However, those assets not within the excluded categories, which are acquired and/or disposed of during the plan year would be reported, as well as all assets held for investment at the end of the plan year.

Present § 2520.104a-4 is proposed to be rescinded. Proposed new § 2520.104a-4 would eliminate the current dual reporting to the Department, at different times, of the same material modification in the plan or change in certain information with respect to the plan.

The Department is also publishing in this issue of the FEDERAL REGISTER a redesignation of interim and proposed regulation § 2520.104a-5, Summary of material modifications, published on July 19, 1977, as § 2520.104a-7. The redesignation is necessary because two regulations have been issued under the same section number.

Section 2520.103-6. Under section 103(b)(3)(H)(i) of the Act, an employee benefit plan must report any transaction involving an amount in excess of 3 percent of the current value of the assets of the plan. Additionally, section 103(b)(3)(H)(iv) requires an employee benefit plan to report any transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction with such person in the plan year respecting a security involves more than 3 percent of plan assets. Thus, the reporting requirements of the Act cover any 3 percent transaction and a much broader range of transactions triggered by a 3 percent transaction.

On August 3, 1976 (41 FR 32522), the Department published proposed and temporarily effective § 2520.103-6 with respect to the reporting of 3 percent transactions and any transaction triggered by a 3 percent transaction. On May 20, 1977, the Department requested comments on the temporary regulations for annual reporting (42 FR 25870). In response, the Department received many comments critical of the reporting requirements for 3 percent transactions and the broader reporting requirements triggered by any 3 percent transaction.

A number of comments pointed out that the bulk of 3 percent transactions with respect to a plan occur as a result of the plan's efforts to manage cash in a manner that would serve the best interests of plan participants and beneficiaries. Upon receipt of contributions from plan sponsors or proceeds from investment sales, plans often make temporary investments until long-term opportunities can be carefully examined or benefits can be paid to plan participants and beneficiaries. The most prevalent temporary investments are the debt obligations of the United States, interests in money market funds, commercial paper and participations in common or collective trusts or pooled separate accounts. Such temporary investments are usually effected by financial institutions such as banks, broker-dealers, insurance companies, and investment companies which are subject to Federal and/or State regulation. Under the temporary and proposed regulations, employee benefit plans are required to report not only each temporary investment that constitutes a 3 percent transaction but also all other securities transactions with any person that participates in such a 3 percent transaction.

Other comments noted that 3 percent transactions may occur through the purchase or sale of stock listed on a national securities exchange or quoted in NASDAQ—an automated inter-dealer quotation system. Under the current regulations, a plan must report not only the 3 percent stock transaction but also any other securities transaction involving the broker-dealer that executed the trade. For example, if a plan purchases through Broker B 1,000 shares of Able Company common stock amounting to 4 percent of plan assets, and then purchases or sells other securities through Broker B during the same plan year, the plan must report all the securities transactions effected through Broker B in its annual report. According to these comments the reporting of these other securities transactions, in addition to the 3 percent transaction, imposes an undue reporting burden on plans. The comments also emphasize that broker-dealers are subject to regulation under the Securities Exchange Act of 1934.

After consideration of these comments, the Department is proposing to continue the reporting of all 3 percent transactions under § 2520.103-6(c)(i), but to reduce significantly the reporting of other securities transactions triggered by a 3 percent transaction under § 2520.-103-6(c)(iv). The proposed revision in the regulation would eliminate the reporting requirements triggered by a 3 percent transaction if the 3 percent transaction or any subsequent transaction involves certain types of temporary investments or the transaction which is triggered involves purchases or sales of listed and certain publicly traded securities. However, the proposed changes are limited to triggered transactions covered by § 2520.103-6(c)(iv); the changes would not relieve plans of the reporting obligations set forth in § 2520.103-6(c)(i)-(iii).

This reduced reporting burden would be accomplished, pursuant to authority

granted by the Secretary of Labor by sections 104(a)(3) and 110 of the Act, by narrowly defining the term "securities" solely for purposes of § 2520.103-6(c)(iv). The definition would exclude from the reporting requirement of § 2520-103-6(c)(iv) investments involving transactions meeting two criteria: (1) The transactions must be effected through one of four enumerated categories of financial institutions subject to Federal and/or State regulation; and (2) the transactions must fall within one of seven enumerated categories of temporary investments. If a 3 percent transaction meets these two criteria, it must be reported but it will not trigger the reporting requirements of § 2520.103-6(c)(iv).

The proposed section also contains a restricted definition of the phrase "with or in conjunction with a person" contained in § 2520.103-6(b)(3)(B) solely for purposes of § 2520-103-6(c)(iv). The definition would exclude from the category of transactions "with or in conjunction with a person" any transaction that meets the following three criteria: (1) The broker-dealer who engages in the transaction is registered under the Securities Exchange Act of 1934; (2) the security is listed on a national securities exchange or quoted on NASDAQ; (3) the broker-dealer does not purchase or sell the security for its own account or the account of an affiliated person. Thus, while a 3 percent transaction in such security must be reported, it will not trigger the reporting requirements of § 2520-103-6(c)(iv) if the three conditions described above are met with respect to the other securities transactions effected for the plan by the same broker-dealer for the plan.

Section 2520.103-11. Under section 103(b)(3)(C) of the Act, an employee benefit plan must include in its annual report a schedule of all "assets held for investment purposes * * *." No regulation has previously been proposed to interpret or implement this provision.

The 1975 Annual Report forms had provided that the schedule of "assets held for investment purposes" should include only those assets held for investment by the plan at the end of the plan year. This interpretation of the language in section 103(b)(3)(C) was criticized in comments on two grounds. First, the comments suggested that this interpretation did not comport with the legislative intent behind the reporting requirements of the Act. Second, the comments argued that plans could circumvent the reporting requirements of the Act by purchasing assets early in the plan year and selling those assets before the end of the plan year. The instructions for the 1976 Annual Report forms did not include the reference to plan assets held for investment at the end of the plan year.

Some comments indicated that the reporting of every investment asset held during the plan year imposed a heavy reporting burden on plans. They emphasized that under this interpretation of section 103(b)(3)(C), a plan would have to report all temporary investments used for the legitimate function of cash management and report investments already listed on other schedules in the annual report.

After consideration of these comments, the Department has decided, pursuant to authority in sections 104(a)(3) and 110 of the Act, to revise the reporting of assets held for investment by proposing § 2520.103-11. The proposed section would require the reporting of all assets held for investment purposes by a plan at the end of the plan year, plus a limited category of assets purchased during the plan year and sold before the end of the plan year. These reporting requirements would be implemented by narrowly defining the phrase "assets held for investment purposes" in section 103(b)(3)(C) of the Act to exclude certain types of investments.

Under the proposed regulation, the investment transactions during the plan year that would not have to be reported would be purchases and sales of government securities, instruments for short-term money management, (such as interests in money market funds and short-term commercial paper ranked in the highest rating category), and securities listed on a national securities exchange or quoted on NASDAQ. The potential for abuse and the need for reporting appears to be relatively low for these investments because such investments are effected through financial institutions subject to recordkeeping requirements by Federal and/or State agencies and are in securities which are generally traded in established markets. On the other hand, these factors generally are not present in those cases where plans make investments such as real estate, mortgages, loans and securities which are not listed on a national securities exchange or quoted on NAS DAQ. Records concerning such investments are not readily accessible and such investments generally do not have a readily ascertainable market value.

It also appears unnecessary and duplicative for plans to report on the schedule of assets held for investment, those investments that would appear on other schedules in the annual report. For example, if a plan purchases and sells unlisted securities from a party in interest during the plan year such transactions wil be reported in the schedule required by § 2520.103-10(b)(2) if they are not exempt from the prohibited transaction provisions of the Act. Accordingly, the proposed section would exclude from the requirement to report assets held for investment, transactions reported on the other schedules required by § 2520.103-10.

Plans which elect to use the alternative method and limited exemption for filing the annual report provided in §§ 2520.103-1 or 2520.103-2 would be able to rely on the definition of assets held for investment set forth in § 2520.103-11(b) for the preparation of the appropriate schedule under § 2520.103-10(b).

Section 2520.104a-4. Under section 104(a)(1)(D) of the Act, a plan administrator of an employee benefit plan shall file with the Secretary any material modification or change in the plan referred to in section 102(a)(2) of the Act within 60 days after such modification or change is adopted or occurs. Section 102(a)(2) refers to any material modification in the terms of the plan and any change in the information described in section 102(b) of the Act.

On April 23, 1976, the Department adopted § 2520.104a-4 (41 FR 16964), which defines more precisely the obligation of a plan administrator to file material modifications in the terms of the plan and changes in the information described in section 102(b) of the Act. Under this section, a plan administrator is required to report any material modification in plan terms or change in information described in section 102(b) of the Act to the Secretary within 60 days after such modification or change is adopted or occurs. This report is required to be filed on Department of Labor Form EBS-1 in accordance with § 2520.104a-1(a) and the instructions to this form. These instructions to Form EBS-1 provide guidance as to what constitutes a "material" modification in plan terms.

On July 19, 1977, the Department published final regulations covering summary plan description requirements with certain regulations effective on an interim basis (42 FR 37178). The Department recognizes that, as a result of the promulgation of these regulations, in the event of a material modification in the terms of a plan or a change in the information described in section 102(b) of the Act, a plan administrator would be required to file two reports of the modification or change with the Department at two different times. One report is an amended EBS-1, which must be filed with the Department within 60 days of the adoption or occurrence of such modification or change, and the second report is the summary description of such modification or change, which must be filed not later than 210 days after the end of the plan year in which such modification or change occurs. It appears to the Department that the duplicative reporting of material modifications and changes in section 102(b) information may impose a paperwork burden on employee benefit plans without commensurate benefits to plan participants and beneficiaries. Of the two reports, the Department believes that the summary description of a material modification or change (SMM) is more useful to plan participants and beneficiaries than the Form EBS-1. The SMM is sent directly to plan participants and beneficiaries as well as filed with the Department, while the Form EBS-1 is only filed with the Department where it is available for public inspection. The SMM contains an easily understandable summary of each material modification or change, while the Form EBS-1 is composed of check-off boxes, designed for computer reading. The primary advantage of the Form EBS-1 is that it is filed with the Department more promptly

than the SMM. But this advantage is offset by the fact that the Form EBS–1 is not sent to plan participants and beneficiaries and that the Form EBS–1 on file at the Department is not required to be written in a manner calculated to be understood by the average plan participant.

For these reasons, the Department is proposing to rescind § 2520.104a–4, which requires an employee benefit plan to file an amended Form EBS–1 to reflect any material modification in plan terms or a change in information under section 102 (b) of the Act. The Department is also proposing a new § 2520.104a–4 which would, in effect, permit a plan to satisfy the reporting requirement of section 104 (a) (1) (D) of the Act by filing an SMM not later than 210 days after the close of the plan year in which the modification or change occurred or was adopted.

Several points should be noted concerning proposed § 2520.104a.–4. First, a plan administrator must still file a Form EBS–1 for the description of the plan as required by section 104(a) (1) (B) of the Act and § 2520.104a–2. Proposed § 2520.-104a–4 pertains only to the summary of a material modification or change required by section 104(a) (1) (D) of the Act. It is contemplated that when the initial Form EBS–1 is updated once every five years as required by section 104(a) (1) (B) of the Act, the plan administrator will integrate into the updated Form EBS–1 all the information contained in the SMM's filed during the intervening years.

Second, comments on the current § 2520.104a–4 sought clarification of what constitutes a "material" modification. In response, the Department provided guidelines in the instructions to the Form EBS–1. These guidelines on what constitutes a "material" modification would continue to be in effect under proposed § 2520.104a–4, if adopted, although the Form EBS–1 would no longer be used for disclosure of material modifications or changes.

Finally, in the case of most material modifications and changes in the information under section 102(a), plan administrators may file the SMM with the Department at the same time they forward the SMM to plan participants and beneficiaries. The proposed regulation provides this potential for coordination by permitting the SMM to be filed no later than the date the SMM would be provided to plan participants and beneficiaries under § 2520.104b–3.

Accordingly, it is proposed that Chapter XXV of Title 29 of the Code of Federal Regulations be amended as follows:

By revising §§ 2520.103–6, rescinding 2520.104a–4 and adding a new § 2520.-104a–4, and adding a new § 2520.103–11 to read as follows:

(Secs. 101, 102, 103, 104, 110, 505; Pub. L. 93–406; 88 Stat. 840–52, 894 (29 U.S.C. 1021–24, 1029–31, 1135).)

§ 2520.103–6 Definition of reportable transactions for Annual Return/Report.

(a) *General.* For purposes of preparing the schedule of reportable transactions described in § 2520.103–10(b)(5), a reportable transaction includes any transaction or series of transactions described in paragraph (c) of this section.

(b) *Definitions.* (1)(i) Except as provided in paragraph (b)(1)(ii) and in paragraphs (c)(2) and (d)(1)(vi) of this section (relating to assets acquired or disposed of during the plan year), "current value" shall mean the current value, as defined in section 3(26) of the Act, of plan assets as of the beginning of the plan year, or the end of the previous plan year.

(ii) With respect to schedules of reportable transactions for plan years beginning in 1975, the current value of plan assets for the beginning of the plan year, or the end of the previous plan year, shall be the amount shown on line 13(h) of Form 5500 Annual Return/Report.

(2)(A) A "transaction with respect to securities" is any purchase, sale, or exchange of securities. A transaction with respect to securities for purposes of this section occurs on either the trade date or settlement date of a purchase, sale, or exchange of securities: *Provided,* That either the trade date or settlement date is used consistently during the plan year for the purposes of this section. For the purposes of this section, except as provided in paragraph (b)(2)(B), "securities" includes a unit of participation in a common or commingled trust or a pooled separate account.

►(2)(B) Solely for purposes of paragraph (c)(iv), the term "securities", as it applies to any transaction involving a bank or insurance company regulated by a Federal or State agency, an investment company registered under the Investment Company Act of 1940, or a broker-dealer registered under the Securities Exchange Act of 1934, shall not include:

(i) Debt obligations of the United States or any United States agency with a maturity of not more than one year;

(ii) Debt obligations of the United States or any United States agency with a maturity of more than one year if purchased or sold under a repurchase agreement having a term of less than 91 days;

(iii) Interests issued by a company registered under the Investment Company Act of 1940 which invests primarily in securities with a maturity of not more than one year;

(iv) Bank certificates of deposit with a maturity of not more than one year;

(v) Commercial paper with a maturity of not more than nine months if it is ranked in the highest rating category by at least two nationally recognized statistical rating services and is issued by a company required to file reports under section 13 of the Securities Exchange Act of 1934;

(vi) Participations in a bank common or collective trust;

(vii) Participations in an insurance company pooled separate account.◄

►3(A) Except as provided by paragraph (b)(3)(B),◄ a transaction is "with or in conjunction with a person" for purposes of this section if that person benefits from, executes, facilitates, participates, promotes, or solicits a transaction or part of a transaction involving plan assets.

►3(B) Solely for the purposes of paragraph 6(c)(iv), a transaction shall not be considered "with or in conjunction with a person" if:

(i) That person is a broker-dealer registered under the Securities Exchange Act of 1934;

(ii) The transaction involves the purchase or sale of securities listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or quoted on NASDAQ; and

(iii) The broker-dealer does not purchase or sell securities involved in the transaction for its own account or the account of an affiliated person.◄

(c) *Application.* (1) This provision applies to:

(i) A transaction within the plan year, with respect to any plan asset, involving an amount in excess of 3 percent of the current value of plan assets;

(ii) Any series of transactions (other than transactions with respect to securities) within the plan year with or in conjunction with the same person which, when aggregated, regardless of the category of asset and the gain or loss of any transaction, involves an amount in excess of 3 percent of the current value of plan assets;

(iii) Any transaction within the plan year involving securities of the same issue if within the plan year any series of transactions with respect to such securities, when aggregated, involves an amount in excess of 3 percent of the current value of plan assets; and

(iv) Any transaction within the plan year with respect to securities with or in conjunction with a person if any prior or subsequent single transaction within the plan year with such person with respect to securities exceeds 3 percent of the current value of plan assets.

(2) For purposes of determining whether any 3 percent transactions occur, the "current value" of an asset acquired or disposed of during the plan year is the current value, as defined in section 3(26) of the Act, at the time of acquisition or disposition of such asset.

(d) *Contents.* (1) The schedule of transactions shall include the following information as to each transaction or series of transactions:

(i) The name of each party, except that in the case of a transaction or series of transactions involving a purchase or sale of a security on the market, the schedule need not include the person from whom it was purchased or to whom it was sold. A purchase or sale on the market is a purchase or sale of a security through a registered broker-dealer acting as a broker under the Securities Exchange Act of 1934;

(ii) A brief description of each asset;

(iii) The purchase or selling price in the case of a purchase or sale, the rental in the case of a lease, and the amount of principal, interest rate, payment schedule (e.g. fully amortized, partly

amortized with balloon) and maturity date in the case of a loan;

(iv) Expenses incurred, including, but not limited to, any fees or commissions;

(v) The cost of any asset;

(vi) The current value of any asset acquired or disposed of at the time of acquisition or disposition; and

(vii) The net gain or loss.

(2) The schedule of transactions with respect to a series of transactions described in subparagraph (c)(1)(iii) may include the following information for each issue in lieu of the information prescribed in paragraphs (d)(1)(i)–(vii)):

(i) The total number of purchases of such securities made by the plan within the plan year;

(ii) The total number of sales of such securities made by the plan within the plan year;

(iii) The total dollar value of such purchases;

(iv) The total dollar value of such sales;

(v) The net gain or loss as a result of these transactions.

(e) *Examples.* (1) At the beginning of the plan year, XYZ plan has 10 percent of the current value of its plan assets invested in ABC common stock. Halfway through the plan year, XYZ purchases ABC common stock in a single transaction in an amount equal to 5 percent of the current value of plan assets. At about this time, XYZ plan also purchases a commercial development property in an amount equal to 4 percent of the current value of plan assets. Under paragrah (c)(1)(i) of this section, the 5 percent stock transaction is a reportable transaction for the plan year because it exceeds 3 percent of the current value of plan assets. The 4 percent land transaction is also reportable under paragraph (c)(1)(i) because it exceeds 3 percent of current value of plan assets.

(2) During the plan year, AAA plan purchases a commercial lot from ZZZ corporation at a cost equal to 2 percent of the current value of the plan assets. Two months later, AAA plan loans ZZZ corporation an amount of money equal to 1.5 percent of the current value of plan assets. Under the provisions of paragraph (c)(1)(ii), the plan has engaged in a reportable series of transactions with or in conjunction with the same person, ZZZ corporation, which when aggregated involves 3.5 percent of plan assets.

(3) At the beginning of the plan year, ABC plan has 10 percent of the current value of plan assets invested equally in a combination of XYZ Corporation common stock and XYZ preferred stock. One month into the plan year, ABC sells some of its XYZ common in an amount equal to 2 percent of the current value of plan assets.

(i) Six weeks later the plan sells XYZ preferred stock in an amount equal to 2 percent of the current value of plan assets. A reportable series of transactions has not occurred because only transactions involving securities of the same issue are to be aggregated under paragraph (c)(1)(iii) of this section.

(ii) Two weeks later when the ABC plan purchases XYZ common stock in an amount equal to 2.5 percent of the current value of plan assets, a reportable series of transactions under paragraph (c)(1)(iii) of this section has occurred. The sale of XYZ common stock worth 2 percent of plan assets and the purchase of XYZ common stock worth 2.5 percent of plan assets aggregate to exceed 3 percent of the total value of plan assets. Purchases and sales should be aggregated; a net calculation should not be made. Both the purchase and sales of XYZ common stock are part of the reportable series under paragraph (c)(1)(iii) of this section.

[(4) At the beginning of the plan year, Plan X purchases from broker-dealer Y common stock of Able Industries in an amount equal to 4 percent of the current value of plan assets. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Six months later, Plan X sells broker-dealer Y, the same broker-dealer involved in the previous 4 percent transaction, preferred stock of the Baker Corporation in an amount equal to 0.5 percent of the current value of plan assets. This sale is a reportable transaction under the provisions of paragraph (c)(1)(iv) of this section. Three months later Plan X purchases from the same broker-dealer Y certain short term debt obligations of Charley Company in the amount of 0.2 percent of the current value of plan assets. This purchase is also a reportable transaction under the provisions of paragraph (c)(1)(iv) of this section.]

►(4) At the beginning of the plan year, Plan X purchases through broker-dealer Y common stock of Able Industries in an amount equal to 4 percent of plan assets. The common stock of Able Industries is not listed on any national securities exchange or quoted on NASDAQ. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases short-term debt obligations of Charley Company through broker-dealer Y in the amount of 0.2 percent of plan assets. This purchase is also a reportable transaction under the provisions of paragraph (c)(1)(iv) of this section.◄

►(5) At the beginning of the plan year, Plan X purchases from Bank B certificates of deposit having a 180 day maturity in an amount equal to 4 percent of plan assets. Bank B is a national bank regulated by the Comptroller of the Currency. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases through Bank B 91-day Treasury bills in the amount of 0.2 percent of plan assets. This purchase is not a reportable transaction under paragraph (c)(1)(iv) of this section because of the definition of "securities" in paragraph (b)(2)(B).◄

►(6) At the beginning of the plan year, Plan X purchases through broker-dealer Y common stock of Able Industries, a New York Stock Exchange listed security, in an amount equal to 4 percent of plan assets. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases through broker-dealer Y, acting as agent, common stock of Baker Corporation, also a New York Stock Exchange listed security, in an amount equal to 0.2 percent of plan assets. This latter purchase is not a reportable transaction under paragraph (c)(1)(iv) of this section because it is not a transaction "with or in conjunction with a person" pursuant to paragraph (b)(3)(B) of this section.◄

§ 2520.103–11 Assets held for investment purposes.

(a) *General.* For purposes of preparing the schedule of assets held for investment purposes required by section 103(b)(3)(C) of the Act and described in § 2520.103–10(b), assets held for investment purposes include those assets described in paragraph (b) of this section.

(b) *Definitions.* (1) Assets held for investment purposes shall include:

(i) Any investment asset held by the plan on the last day of the plan year of the plan; and

(ii) Any investment asset which was purchased at any time during the plan year and was sold at any time before the last day of the plan year of the plan, except as provided by paragraphs (b)(2) and (b)(3) of this section.

(2) Assets held for investment purposes shall not include any investment which was not held by the plan on the last day of the plan year for which the annual report is filed if that investment falls within any of the following categories:

(i) Debt obligations of the United States or any agency of the United States;

(ii) Interests issued by a company registered under the Investment Company Act of 1940 which invests primarily in securities, with a maturity of not more than one year;

(iii) Bank certificates of deposit with a maturity of not more than one year;

(iv) Commercial paper with a maturity of not more than nine months if it is ranked in the highest rating category by at least two nationally recognized statistical rating services and is issued by a company required to file reports with the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934;

(v) Participations in a bank common or collective trust;

(vi) Participations in an insurance company pooled separate account;

(vii) Securities listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or quoted on NASDAQ.

(3) Assets held for investment purposes shall not include any investment which was not held by the plan on the last day of the plan year for which the annual report is filed if that investment is reported on the annual report of that same plan in any of the following:

(i) The schedule of each transaction involving a person known to be a party in interest required by section 103(b)(3)

(D) of the Act and § 2520.103–10(b)(2);

(ii) The schedule of loans or fixed income obligations in default required by section 103(b)(3)(E) of the Act and § 2520.103–10(b)(3);

(iii) The schedule of leases in default or classified as uncollectable required by section 103(b)(3)(F) of the Act and § 2520.103–10(b)(4); or

(iv) The schedule of reportable transactions required by section 103(b)(3)(H) of the Act and § 2520.103–10(b)(5).

(c) *Examples.* (1) On February 1, 1977, Plan N purchases an interest in registered investment company F (Fund F), which invests primarily in securities with a maturity of not more than one year. Fund F is not a party in interest with respect to Plan N. On November 1, 1977, Plan N sells this interest in Fund F and Purchases 1,000 shares of Stock S, which the plan holds for the rest of the plan year. Plan N must include in its schedule of assets held for investment purposes the 1,000 shares of Stock S under paragraph (b)(1) of this section, but need not include the interest in Fund F under paragraph (b)(2)(iii).

(2) On February 1, 1977, Plan N purchases a parcel of real estate from Mr. M, who is not a party in interest with respect to Plan N. On November 1, 1977, Plan sells the parcel of real estate for cash to Mr. X, who is not a party in interest with respect to Plan N. Plan N uses the cash from this transaction to purchase a one-year certificate of deposit in Bank B, which it holds until maturity in 1978. Plan N must include in its schedule of assets held for investment purposes the parcel of real estate under paragraph (b)(1)(ii) of this section and the one-year certificate of deposit in Bank B under paragraph (b)(1)(i) of this section.

§ 2520.104a–4 Material modifications to the plan and changes in plan description information.

(a) *General Obligation to File.* The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act shall file with the Secretary, as required by section 104(a)(1)(D) of the Act, any material modifications in the terms of the plan or any changes in the information required by section 102(b) of the Act.

(b) *Fulfilling the filing obligation.* (1) The administrator of an employee benefit plan shall satisfy the requirements of section 104(a)(1)(D) of the Act and § 2520.104(a)–4(a) by filing with the Secretary a summary of material modifications or changes in information which is required by § 2520.104b–3. The summary description of such material modifications or changes shall be filed, in accordance with § 2520.104a–7, no later than the date on which the summary description is required to be disclosed to participants.

(2) The administrator of an employee benefit plan is not required to file a summary of any material modifications or changes in information required to be included in the summary description if such modifications or changes are:

(i) Incorporated in a summary plan description or supplement filed with the Secretary of Labor pursuant to § 2520.104a–3;

(ii) Incorporated in the plan description filed with the Secretary within 120 days after the plan becomes subject to Part I of Title I of the Act and pursuant to § 2520.104a–2.

(iii) Incorporated in an updated plan description filed with the Secretary pursuant to section 104(a)(1)(B) of the Act.

(b) *Filing Address.* The summary description of material modifications to the plan and changes in the information required by section 102(b) shall be filed with the Secretary of Labor by mailing it to SMM, U.S. Department of Labor, Washington, D.C. 20216 or by delivering it during normal working hours to Room N–4635, Department of Labor, 200 Constitution Ave., NW., Washington, D.C.

(c) *Effect.* This section is effective ----------, and supersedes prior § 2520.104a–4 published on April 23, 1976 (41 FR 16964).

Signed at Washington, D.C. this 28th day of November, 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration.

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