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WEDNESDAY, NOVEMBER 1, 1978



highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

For workshops in Washington, D.C. and out of town, see notice on inside front cover.

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WHEN: November 13, 1978, at 9:00 a.m.

WHERE: University of Tennessee at Nashville, 10th and Charlotte, Room 358, Nashville, Tennessee.

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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: Oct. 30, 1978]

H.R. 13481 ..... Pub. L. 95-522
To name the post office and Federal building in Portland, Maine, the "Federick G. Payne Building". (Oct. 27, 1978; 92 Stat. 1886) Price: $.60

H.R. 50 ..... Pub. L. 95-523
Full Employment and Balanced Growth Act of 1978. (Oct. 27, 1978; 92 Stat. 1887) Price: $1.10

S. 2570 ..... Pub. L. 95-524
"Comprehensive Employment and Training Act Amendments of 1978." (Oct. 27, 1978; 92 Stat. 1909) Price: $2.40

H.R. 7296 95-525
To designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building". (Oct. 27, 1978; 92 Stat. 2022) Price: $.60

H.R. 12116 95-526
To amend the District of Columbia Self-Government and Government Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes. (Oct. 27, 1978; 92 Stat. 2023) Price: $.60

H.R. 7305 ..... Pub. L. 95-527
To designate a certain Federal building in Champaign, Illinois, the "William L. Springer Building". (Oct. 27, 1978; 92 Stat. 2025) Price: $.60

H.R. 13808 ..... Pub. L. 95-528
To designate the "Omar Burleson Federal Building". (Oct. 27, 1978; 92 Stat. 2026) Price: $.60

H.R. 13809 ..... Pub. L. 95-529
To designate the "George Mahon Federal Building". (Oct. 27, 1978; 92 Stat. 2027) Price: $.60

H.R. 13892 ..... Pub. L. 95-530
To amend title 28 of the United States Code to provide that the requirement that each United States attorney and United States marshal reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district. (Oct. 27, 1978; 92 Stat. 2028) Price: $.60

H.R. 14223 ..... Pub. L. 95-531
To designate a certain Federal building in Bloomington, Illinois, the "Leslie C. Arends Building". (Oct. 27, 1978; 92 Stat. 2029) Price: $.60

H.R. 14295 ..... Pub. L. 95-532
To designate the "Paul G. Rogers Federal Building". (Oct. 27, 1978; 92 Stat. 2030) Price: $.60

H.J. Res. 747 ..... Pub. L. 95-533
To consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State. (Oct. 27, 1978; 92 Stat. 2031) Price: $.60

H.J. Res. 816 ..... Pub. L. 95-534
To extend the authority of the Federal Reserve banks to buy and sell certain obligations. (Oct. 27, 1978; 92 Stat. 2032) Price: $.60

S. 2049 ..... Pub. L. 95-535
To establish fees and allow per diem and mileage expenses for witnesses before United States courts. (Oct. 27, 1978; 92 Stat. 2033) Price: $.60

S. 2403 ..... Pub. L. 95-536
To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21. (Oct. 27, 1978; 92 Stat. 2034) Price: $.60

S. 3336 ..... Pub. L. 95-537
Contract Services for "Drug Dependent Federal Offenders Act of 1978". (Oct. 27, 1978; 92 Stat. 2037) Price: $.60

S. 3540 ..... Pub. L. 95-538
To rename the United States Federal building in Yakima, Washington, the "Justice William O. Douglas Federal Building". (Oct. 27, 1978; 92 Stat. 2038) Price: $.60

S. 1315 ..... Pub. L. 95-539
Court Interpreters Act. (Oct. 28, 1978; 92 Stat. 2039) Price: $.70

H.R. 4727 ..... Pub. L. 95-540
To amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims. (Oct. 28, 1978; 92 Stat. 2045) Price: $.60

H.R. 7749 ..... Pub. L. 95-541
Antarctic Conservation Act of 1978. (Oct. 28, 1978; 92 Stat. 2047) Price: $.80

H.R. 11671 ..... Pub. L. 95-542
To designate a certain Federal building in Big Stone Gap, Virginia, the "C. Bascom Slemp Building". (Oct. 28, 1978; 92 Stat. 2057) Price: $.60

H.R. 12634 ..... Pub. L. 95-543
To designate a building in Pittsburg, Kansas, as the "Joe Skubitz Social Security Administration Center" (Oct. 28, 1978; 92 Stat. 2058) Price: $.60

H.R. 13187 ..... Pub. L. 95-544
To designate the United States Post Office and Federal Building in Griffin, Georgia, the "John J. Flynt, Jr. Federal Building". (Oct. 28, 1978; 92 Stat. 2059) Price: $.60

H.R. 13514 ..... Pub. L. 95-545
To name a certain Federal building in Shreveport, Louisiana, the "Joe Waggonner Federal Building". (Oct. 28, 1978; 92 Stat. 2060) Price: $.60

H.R. 13972 ..... Pub. L. 95-546
To designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana. (Oct. 28, 1978; 92 Stat. 2061) Price: $.60

H.R. 13989 ..... Pub. L. 95-547
To amend section 1145(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research. (Oct. 28, 1978; 92 Stat. 2062) Price: $.60

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

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EPA—Interim rule for administrative actions under water quality management program; effective 10-25-78; comments by 12-26-78 ..... 49792; 10-25-78

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HEW/NIE—Unsolicited proposals to conduct educational research and development activities; reminder of 10-31-78 closing date for receipt of proposals 50045; 10-26-78

Meetings:

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HEW/NIH—Aging Review Committee, Bethesda, Md. (partially open), 12-4 and 12-5-78 ..... 49851; 10-25-78

Animal Resources Review Committee, San Diego, Calif. (partially open), 11-9 and 11-10-78 ..... 49851; 10-25-78

Board of Scientific Counselors, Bethesda, Md. (partially open), 11-1 and 11-2-78 ..... 49851; 10-25-78

Board of Scientific Counselors, Triangle Park, N.C. (partially open), 12-5 through 12-7-78 ..... 49852; 10-25-78

Clinical Trials Review Committee, Bethesda, Md. (partially open), 11-26 and 11-27-78 ..... 49852; 10-25-78

General Research Support Review Committee, Bethesda, Md. (partially open), 11-16 and 11-17-78 ..... 49852; 10-25-78

Heart, Lung, and Blood Research Review Committee, Bethesda, Md. (partially open), 11-30 through 12-2-78 .. 49853; 10-25-78

Heart, Lung, and Blood Research Review Committee B, Bethesda, Md. (partially open), 11-30 and 12-1-78 ..... 49853; 10-25-78

OE—Adult Education Advisory Council, Tucson, Ariz. (open), 11-15 and 11-16-78 ..... 49851; 10-25-78

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NSF—Physiology, Cellular, and Molecular Biology Advisory Committee, Metabolic Biology Subcommittee, Washington, D.C. (closed), 11-9 and 11-10-78 ..... 49592; 10-24-78

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Table of Effective Dates and Time Periods—November 1978

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. All January, February, and March dates are in 1979.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
November 1	November 16	December 1	December 18	January 2	January 30
November 2	November 17	December 4	December 18	January 2	January 31
November 3	November 20	December 4	December 18	January 2	February 1
November 6	November 21	December 6	December 21	January 5	February 5
November 7	November 22	December 7	December 22	January 8	February 5
November 8	November 24	December 8	December 26	January 8	February 6
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November 13	November 28	December 13	December 28	January 12	February 12
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November 16	December 1	December 18	January 2	January 15	February 14
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November 27	December 12	December 27	January 11	January 26	February 26
November 28	December 13	December 28	January 12	January 29	February 26
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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SEA—Science and Education Administration
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
EAB—Bureau of Economic Analysis
EDA—Economic Development Administration
FTZB—Foreign-Trade Zones Board
ITA—Industry and Trade Administration
MA—Maritime Administration
MBEO—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DCAA—Defense Contract Audit Agency
DIA—Defense Intelligence Agency
DIS—Defense Investigative Service
DLA—Defense Logistics Agency
EC—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT

BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration
EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission
OHADOE—Hearings and Appeals Office, Energy Department

SEPA—Southeastern Power Administration
SWPA—Southwestern Power Administration
WAPA—Western Area Power Administration

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

AC—Aging Federal Council
ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
ESNC—Educational Statistics National Center
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
MSI—Museum Services Institute
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals, Interior Department
RB—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMR—Office of Hazardous Materials Regulations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office
SS—Secret Service

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
FCA—Farm Credit Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/OFR—Office of the Federal Register
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/OFR—Office of the Federal Register
GSA/PBS—Public Buildings Service
ICA—International Communications Agency
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
MB—Metric Board
MWSC—Minimum Wage Study Commission
MWSC—Minimum Wage Study Commission
NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH—National Foundation for the Arts and the Humanities
NLRB—National Labor Relations Board

NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OMB—Office of Management and Budget
OMB/FPPO—Federal Procurement Policy Office
OPIC—Overseas Private Investment Corporation
OSTP—Office of Science and Technology Policy
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

IMPROVING GOVERNMENT REGULATIONS

SCHEDULE OF SEMIANNUAL AGENDAS OF REGULATIONS

Executive order 12044, Improving Government Regulations, (43 FR 12661) requires that executive agencies publish semiannual agendas of significant regulations under development. At a minimum each agenda is to describe the regulations being considered by the agency, the need for and legal basis for the action being taken, the name and telephone number of a knowledgeable agency official, and the status of regulations previously published.

The agencies have chosen the following dates to publish their agendas. The Office of the Federal Register compiled this schedule as a public service.

ACTION	Jan. 8, 1979; July 9, 1979.
Administrative Committee of the Federal Register	Jan. 8, 1979; July 9, 1979.
Agency for International Development	Feb. 15, 1979; July 16, 1979.
Agriculture Department	Nov. 15, 1978; May 15, 1979.
American Battle Monuments Commission	Nov. 6, 1978; May 7, 1979.
Civil Service Commission	Dec. 1, 1978; May 1, 1979.
Commerce Department	Feb. 15, 1979; Aug. 15, 1979.
Committee for Purchase from the Blind and Other Severely Handicapped	Dec. 1, 1978; June 1, 1979.
Community Services Administration	Nov. 10, 1978; May 11, 1979.
Defense Department	Nov. 30, 1978; May 30, 1979.
Energy Department	Oct. 31, 1978; Apr. 30, 1979.
Environmental Protection Agency	Nov. 1, 1978; Feb. 1, 1979; May 1, 1979; Aug. 1, 1979.
Environmental Quality Council	Jan. 5, 1979; July 5, 1979.
Equal Employment Opportunity Commission	Jan. 31, 1979; July 31, 1979.
Farm Credit Administration	Oct. 31, 1978; Mar. 30, 1979.
Federal Mediation and Conciliation Service	May 1, 1979; Oct. 1, 1979.
Federal Reserve System	Feb. 2, 1979; Aug. 2, 1979.
General Services Administration	Nov. 17, 1978; May 18, 1979.
Health, Education, and Welfare Department	Dec. 1, 1978; June 1, 1979.
Housing and Urban Development Department	Dec. 15, 1978; June 15, 1979.
Interior Department	Jan. 15, 1979; July 16, 1979.
Justice Department	Mar. 1, 1979; Sept. 1, 1979.
Labor Department	Oct. 31, 1978; Apr. 30, 1979.
Management and Budget Office	Dec. 1, 1978; June 1, 1979.
National Aeronautics and Space Administration	Oct. 2, 1978; April 2, 1979.
National Credit Union Administration	Dec. 15, 1978; June 30, 1979.
National Foundation on the Arts and the Humanities	Nov. 6, 1978; May 7, 1979.
National Science Foundation	Dec. 1, 1978; June 1, 1979.
Pension Benefit Guaranty Corporation	Dec. 22, 1978; June 22, 1979.
Railroad Retirement Board	Jan. 31, 1979; July 31, 1979.
Renegotiation Board	Nov. 20, 1978; May 21, 1979.
Small Business Administration	Jan. 25, 1979; July 25, 1979.
State Department	Mar. 30, 1979; Oct. 30, 1979.
Tennessee Valley Authority	Nov. 6, 1978; Apr. 2, 1979.
Transportation Department	Feb. 26, 1979; Aug. 27, 1979.
Treasury Department:	
Government Financial Operations Bureau	Mar. 31, 1979; Sept. 30, 1979.
Internal Revenue Service	Mar. 31, 1979; Sept. 30, 1979.
Public Debt Bureau	Apr. 15, 1979; Oct. 15, 1979.
All other offices and bureaus	Feb. 1, 1979; Aug. 1, 1979.
Veterans Administration	Dec. 18, 1978; June 18, 1979.
Water Resources Council	Jan. 19, 1979; July 20, 1979.

Note: The National Foundation on the Arts and the Humanities will publish on November 6, 1978 and May 7, 1979 instead of November 1, 1978 and April 2, 1979 as previously announced.

rules and regulations

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

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

[1505-01-M]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977/1978 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1977 and 1978. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $400 domestic, $100 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1978):

Title	Price
1	$2.75
2 [Reserved]	
3	4.25
4	4.75
5	5.00
7 Parts:	
0-52	6.00
53-209	4.50
210-699	6.75
700-749	4.25
750-899	2.40
900-944	4.75
945-980	3.50
981-999	3.50
1000-1059	4.75
1060-1119	4.75
1120-1199	4.00
1200-1499	4.75
1500-2799	6.50
2800-2851	5.50
2852	6.00
2853-end	4.00
8	3.50
9	6.00
10 Parts:	
0-199	5.00
200-end	6.25
12 Parts:	
1-299	8.25
300-end	6.75
13	4.75
14 Parts:	
1-59	5.75
60-199	6.75
200-1199	5.75
1200-end	3.75
15	5.75
16 Parts:	
0-149	5.00
150-999	4.75
1000-end	5.25

CFR Unit (Rev. as of Apr. 1, 1978):

20 Parts:	
1-399	$3.50
400-499	5.00
500-end	4.50
21 Parts:	
1-99	4.00
100-199	6.00
200-299	2.75
600-1299	4.25
1300-end	4.50
24 Parts:	
0-499	8.25
26 Parts:	
1 (§§ 1.301-1.400)	4.00
1 (§§ 1.401-1.500)	4.75
1 (§§ 1.501-1.640)	4.75
1 (§§ 1.641-1.850)	4.75
2-29	4.75
300-499	4.75
600-end	3.00

CFR Unit (Rev. as of July 1, 1977):

28	$4.25
29 Parts:	
0-499	5.75
500-1899	6.00
1900-1919	6.00
1920-end	4.50
30	6.00
31	5.75
32 Parts:	
1-39 (V. I) (Rev. 7/1/76)	4.75
(V. II) (Rev. 7/1/76)	7.50
(V. III) (Rev. 7/1/76)	5.25
40-399	6.25
400-589	5.00
590-699	4.00
700-799	8.25
800-999	5.75
1000-1399	2.75
1400-1599	4.25
1600-end	2.75
32A	3.75
33 Parts:	
1-199	7.00
200-end	5.30
34	1.70
35	4.00
36	4.50
37	3.00
38	6.00
39	3.50
40 Parts:	
0-49	4.25
50-59	5.75
60-99	5.00
100-399	4.75
400-end	5.75
41 Chapters:	
1-2	5.25
3-6	5.50
7	2.75
8	2.30
9 (Rev. 9/26/77)	5.00
10-17	4.25
19-100	4.50
101-end	5.75
CFR INDEX & finding aids	4.75

CFR Unit (Rev. as of Oct. 1, 1977):

42 Parts:	
1-399	$5.50
400-end	4.75
43 Parts:	
1-999	4.00
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	4.25
100-149	5.50
150-199	4.75
200-499	3.50
500-end	6.00
46 Parts:	
1-29	3.00
30-40	3.25
41-69	4.50
70-89	3.25
90-109	3.00
110-139	3.00
140-165	4.75
166-199	3.75
200-end	6.00
47 Parts:	
0-19	5.75
20-69	5.25
70-79	*5.00
80-end	6.00
48 [Reserved]	
49 Parts:	
1-99	3.00
100-199	8.25
200-999	8.75
1000-1199	4.50
1200-1299	*8.00
1300-end	4.25
50	5.50

*Previously announced prices of $4.75 and $8.75 for these volumes, listed in the FEDERAL REGISTER of July 1, 1978, were in error.

[3410-16-M]

Title 7—Agriculture

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—LONG-TERM CONTRACTING

PART 634—RURAL CLEAN WATER PROGRAM

AGENCY: Soil Conservation Service (SCS), U.S. Department of Agriculture (USDA) with the concurrence of the U.S. Environmental Protection Agency (EPA).

ACTION: Final rules.

SUMMARY: SCS is publishing regulations to carry out the Rural Clean Water Program (RCWP). The program provides long-term technical and financial assistance to owners and operators having control of rural land.

The purpose of this assistance is to install and maintain best management practices to control agricultural nonpoint source pollution for improved water quality.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward E. Thomas, Assistant Administrator for Land Resources, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, Telephone 202-447-3587, (8 a.m. to 4:30 p.m).

SUPPLEMENTARY INFORMATION:

The regulations are to implement section 35 of Pub. L. 95-217, 91 Stat. 1579 (33 U.S.C. 1288).

Section 35 of the Clean Water Act of 1977 (Pub. L. 95-217) amends section 208 of the Federal Water Pollution Control Act (Pub. L. 92-500) by adding a new subsection (j) titled "Agricultural Cost Sharing." Section 208(j) authorizes the Secretary of Agriculture, with the concurrence of the Administrator, Environmental Protection Agency, to establish and administer a program to enter into 5- to 10-year contracts with owners or operators having control of rural lands. The purpose of the program is to install and maintain best management practices to control agricultural nonpoint source pollution for improved water quality. This program may be initiated in States or areas for which the appropriate Regional Administrator, Environmental Protection Agency, has approved the agricultural portion of a section 208 water quality management plan.

This program is to be known as the Rural Clean Water Program (RCWP). The Secretary of Agriculture has assigned administrative leadership for RCWP to the Administrator of the Soil Conservation Service through the Assistant Secretary of Agriculture for Conservation, Research and Education (7 CFR 2.19(f)(9), and 7 CFR 2.62(a)(11)).

Funding Status

Pub. L. 95-217 authorized to be appropriated to the Secretary of Agriculture $200 million for fiscal year 1979 and $400 million for fiscal year 1980 for the Rural Clean Water Program.

In the Congressional Conference Report on the Agricultural Appropriations Bill for fiscal year 1979, the conferees deleted all funds for this program from the bill without prejudice and await a supplemental request.

Preamble

These regulations implement the Rural Clean Water Program (RCWP) authorized by section 208(j) of the Federal Water Pollution Control Act (Pub. L. 92-500, as amended). The objective of RCWP is to improve water quality in rural areas. RCWP is to be carried out in the most cost-effective manner possible in keeping with the provision of adequate supplies of food and fiber and a quality environment.

The regulations establish a program for reducing agricultural nonpoint source pollution problems on a project basis. Such projects must be consistent with the approved agricultural portion of a 208 water quality management plan. To be eligible for financial and technical assistance, a proposed RCWP project area must be included in an approved agricultural portion of a 208 water quality management plan, and must have agricultural nonpoint source water quality problems. The Governors of the States may submit applications for assistance, in order of priority. The Administrator, Soil Conservation Service (SCS), with the concurrence of the Environmental Protection Agency (EPA), will determine which projects will be approved for funding. Only the highest priority RCWP project areas, where adequate participation of landowners or operators is assured, will receive consideration for funding.

Where practicable, the Administrator, SCS, will enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program for a project area. Where this is not practicable, USDA will administer the program for a project area, and the Administrator, SCS, will enter into agreements with the Agricultural Stabilization and Conservation Service (ASCS) to administer part of the program in such project areas.

RCWP is only applicable to privately owned land. Any owner or operator whose land or activities in an approved project area are contributing to the area's agricultural nonpoint source water quality problems and who has an approved owner or operator water quality plan is eligible to enter into a long-term (5 to 10 years) RCWP contract with the agency designated to administer the program in that project area. The RCWP contract will include best management practices to control agricultural nonpoint source pollution for improved water quality. The basis for the RCWP contracts is a water-quality plan prepared with technical assistance from SCS or its designee and approved by a soil conservation district. Landowner or operator participation in RCWP is on a voluntary basis. The priorities for assistance to individual landowners and operators will be determined jointly by the soil conservation district and the county ASC committee in the project area to assure that the most critical water quality problems are addressed.

Included in these regulations are: (1) The responsibilities of USDA agencies, State and local agencies, landowners or operators, and EPA, (2) requirements for submitting project applications for approval, (3) criteria for selecting, approving, and carrying out projects, (4) requirements for entering into an agreement with the agency which will administer the program in a project area, (5) requirements for individual landowners or operators to enter into and carry out long-term RCWP contracts with financial and technical assistance, (6) provisions for project, grant, and contract termination, (7) requirements for financial management, and (8) plans for program and project monitoring and evaluation.

The Environmental Protection Agency, along with many local, State, and Federal agencies and other interested groups and individuals, has participated in the preparation of these regulations.

General Comments

The Soil Conservation Service, with participation from the Environmental Protection Agency, held 10 public meetings in July 1978 to discuss and solicit public comments on the proposed regulations and draft Environmental Impact Statement. At these public meetings, 611 people attended with 301 participants giving testimony. These field meetings were designed to develop a better understanding of the proposed regulations and provide for public input for the final regulations.

In addition, SCS received more than 450 letters containing more than 1,500 comments on the published proposed regulations. All comments were given full consideration in developing the final regulations. All letters and testimony received are on file and available for public inspection in Room 5115, Agricultural South Building, 14th Street and Independence Avenue, SW., Washington, D.C.

The comments and responses have been categorized by subject matter to facilitate ease of review as follows:

Overall comment. The rules and regulations are unclear, complex, and contain too much procedural detail. Local and State agencies and landowners and operators will have difficulty in understanding the program and this may tend to discourage participation.

Response. This comment is representative of a large number of comments related to editorial problems, excessive length and complexity, etc. The proposed rules were thoroughly reviewed with these comments in mind. To the extent possible in keeping with the public's right to know the policies that will govern RCWP, procedural details were removed and will be included in the program procedural

manual. A notice of availability of the manual will be published in the FEDERAL REGISTER and will be available to the public upon request.

ADMINISTERING AGENCIES (§ 634.4)

Comment. The difference between the agencies administering the RCWP project and the agencies implementing the "208" water quality plan needs to be clarified. The 208 plan should be the "controlling" document.

Response. The Governor designates the management agency to implement the agricultural portion of a 208 plan. The RCWP project is based on an approved agricultural portion of the 208 plan. A recommended administering agency for an RCWP project is included in the project application submitted by the Governor and approved by the Administrator, SCS, with the concurrence of the Administrator, EPA. The duties of the designated management agency and the administering agency are outlined in the regulations in §§ 634.4(o) and 634.4(p), respectively. If the designation management agency is one of the agencies eligible under the Act to be an administering agency, it may be the administering agency for the RCWP project.

Comment. The program should be administered by an organization at the county level. Conservation districts should be given leadership for water quality.

Response. The Act identifies the agencies eligible to administer an RCWP project: Soil conservation districts, State soil and water conservation agencies, State water quality agencies, or where none of these agencies is practicable, USDA. The regulations provide the flexibility to permit the best qualified aforementioned State or local agencies to be selected as the administering agency for the RCWP project.

Comment. The administering agency needs to develop a reporting procedure based on owner-operator feedback through conservation districts and Soil Conservation Service representatives.

Response. Progress reports to the soil conservation district will be a part of the technical assistance provided by the Soil Conservation Service. These reports will include such things as numbers of contracts developed, progress in applying BMP's, status and results of monitoring and evaluation activities, etc.

AGENCY ROLE (§ 634.4)

Comment. The Science and Education Administration—Federal Research should be specifically identified to continue research on agricultural water quality with their own funds. SEA-Extension Service should provide educational programs for water pollution control that are consistent with those of EPA, State water quality agencies, and those in 208 plans.

Response. The Science and Education Administration—Federal Research is continuing research on agricultural water quality and assembling data and information for use in improving water quality. SEA-Extension Service coordinates its educational programs with those of other agencies and provides technical assistance for appropriate BMP's. SEA participates in both national and State coordinating committees.

Comment. The question of agency leadership for the Rural Clean Water Program was raised by many commenters.

Response. The Secretary of Agriculture, in carrying out the law, assigned program leadership to the Soil Conservation Service. The regulations provide flexibility, at the project level, for administering contracts and making cost-share payments. The law is specific as to which State or local agencies qualify as administering agencies. These agencies are State water quality agencies, State soil and water conservation agencies, and conservation districts. The Secretary has decided that, in those projects where USDA retains these responsibilities, county ASC committees will administer contracts and make cost-share payments.

AVERAGE COSTS (§ 634.5)

Comment. Conservation districts should develop average costs for an RCWP project area, subject to the approval of the administering agency.

Response. The regulations assign responsibility for determining average costs to the administering agency. The State administering agency may well choose to involve the local conservation district in determining average costs, and such a procedure is permissible. The regulations clarify that average costs are to be based on local cost data.

Comment. Use of average cost data to establish the basis for cost-share payment is inflationary and lenient. Also, it is not clear if average cost computations include practices other than BMP's.

Response. Average cost computations are based on actual costs for applying BMP's or similar practices. The computations are based upon past experience in installing equivalent measures within the local area. They will normally be based on prior year costs. When average cost exceeds actual cost, the administering agency will designate the BMP to be applied at actual cost, not to exceed average cost, and will modify the contract accordingly. The use of average cost data is a means of controlling expenditures and making equitable payments for similar work.

BENEFITS (§ 634.14)

Comment. Does the provision of adequate supplies of food and fiber refer to the United States or the world?

Response. Provision of adequate supplies includes United States requirements and long-range United States export objectives.

Comment. The potential benefits from these projects will not be major and the public should not expect major improvements in water quality.

Response. The ability of best management practices to reduce nonpoint source pollution is uncertain. The nonpoint water pollution problem, however, is significant. National water quality goals may not be attained unless the nonpoint pollution problem is addressed. In view of the uncertain links between program costs and benefits, care has been taken to insure that assistance is provided only for those practices and measures that can reasonably be expected to reduce or prevent agricultural nonpoint source pollution. Care has also been taken to design the program to direct assistance to areas where nonpoint water pollution problems are the most critical and to minimize the total cost per unit of anticipated water quality benefits. Program assistance will not be made available for water quality improvement for which solutions are not technically and economically feasible.

BEST MANAGEMENT PRACTICES (§ 634.5)

Comment. Will application of the best management practices improve water quality sufficiently to meet the standards established?

Response. Water quality standards have not been established for all agricultural nonpoint source pollutants by all States, nor have the relationships between BMP's and increments of water quality improvement been completely documented. The BMP's in an approved 208 plan, upon which an RCWP project is based, should be designed to meet water quality standards, water quality goals, or designated uses of the receiving waters. The best available technology will be used in the implementation of the RCWP. The regulations provide that as new technology is developed, it will be factored into the RCWP project through the 208 continuing planning process. Existing technology, however, does not appear capable of achieving direct, proportionate improvements in water quality per dollar invested in the program. (Also, see previous comment and response.)

Comment. Who decides on and defines BMP's?

Response. BMP's for agricultural nonpoint source pollution control are

identified in the 208 planning process and contained in the EPA approved 208 plan. Those which are applicable to a specific RCWP project area are shown in the project application. The designated management agency certifies in the project application that the BMP's recommended are consistent with the EPA approved agricultural portion of a 208 plan. When that application is approved, the BMP's are approved. The selection of BMP's to be applied by an individual participant is made when the water quality plan is developed. The plan serves as the basis for the RCWP contract. Only those BMP's in the contract will be cost shared.

Comment. The administering agency should certify that the BMP's to be cost shared are necessary for nonpoint source pollution control instead of just stating that they are consistent with the BMP's in the approved 208 plan.

Response. The RCWP project application identifies those BMP's that in the judgment of the applicant are necessary for agricultural nonpoint source pollution control. The designated 208 management agency certifies that the BMP's are consistent with the 208 plan approved by EPA. Those identified in the approved application will be eligible for inclusion in an RCWP contract and subsequently for cost sharing.

Comment. The rules should clearly define those BMP's that are eligible for cost sharing. USDA should develop a hierarchy of eligible BMP's to serve as a criteria for funding priority. It was further suggested that BMP's be considered as conditional or proposed until research is clearer on the origin of nonpoint pollution sources.

Response. Because of widely varying conditions in agricultural areas, because the effectiveness of BMP's varies for different site conditions and the characteristics of receiving waters, and because of incomplete knowledge on the effectiveness of BMP's, we feel it would be premature for the regulations to specify BMP's or attempt to list a hierarchy of eligible BMP's to serve as a criteria for funding priority. The regulations have been revised to provide local flexibility in defining and selecting BMP's applicable to specific problems. For example, a letter from the designated management agency certifying that BMP's to be cost shared are consistent with the EPA approved 208 plan is to be attached to the application.

Comment. Who will resolve conflicts between SCS and the administering agency or soil conservation districts regarding standards and specifications for BMP's? Who will determine what conservation practices would be included in BMP's?

Response. SCS is responsible for the quality of work performed under RCWP. The Administrator, SCS, is responsible for assuring the adequacy of standards and specifications. In the case of a conflict between SCS and the administering agency, the Administrator's decision will prevail. Conservation practices included in the approved RCWP application as cost-shared BMP's are eligible for cost-sharing. (See previous comment and response.)

Comment. Measures which are not cost shared in the water quality plan should be added as a supplement, and not be a part of the contract.

Response. If noncost-shared BMP's are essential in achieving the objectives of the contract, the contract cannot be fully effective without them. The administering agency needs the force of the contract to assure their application.

Comment. The participant should be credited on substituted BMP's when the originally installed BMP failed through no fault of the participant.

Response. There is no provision in the Act to credit a participant for a BMP that failed through no fault of the participant. The participant, in signing an RCWP contract, assumes part of the risks associated with potential practice failure. BMP's added by contract modification as a result of original BMP failure may be cost shared on the same basis as installation of a new BMP.

CONTRACTS (§ 634.25)

Comment. The participant should be permitted to enter into an RCWP contract to apply BMP's to all or part of the critical areas or sources on his property. Provision should be made to permit adding treatment of additional areas by contract modification.

Response. The participant's water quality plan must identify all critical areas or sources and the BMP's necessary to meet the water quality objectives of the project. The contract must include treatment of all areas or sources which meet the criteria set out in § 634.5(m). The 5 to 10 year contract period provides flexibility for phasing the application of BMP's so as not to place a severe financial burden on the participant in any 1 year. The regulations also provide that variance from the 50 percent cost-share level may be granted based on offsite benefits and financial burden. Therefore, it is reasonable to expect full treatment of critical areas and sources on the participants property necessary for meeting the objectives of the project.

Comment. The language under violations which states "adopting land use or practices during the contract period which tends to defeat the program purposes * * *" is too vague and subjective. Who decides and at what point in time?

Response. The Act states that the landowner, in entering into a contract, shall agree not to adopt practices which would tend to defeat the purposes of the contract. The Secretary of Agriculture, on the advice of EPA, will specify such practices.

Comment. Section 634.28 appears excessively harsh to the participant. No recourse is offered to the participant should the administering agency default. Although the program is to be voluntary, and the participant is expected to pay 50 percent of the costs, he is not assured any tangible benefits in the venture, and apparently is highly suspect should be a problem arise in the contract.

Response. The appeal process is included in the regulations specifically to protect the interests of the participant. The only constraints that are placed on that process are those necessary to protect the Federal investment. The participant is protected from default on the part of the administering agency because his contract would be transferred to another administering agency and he would continue to receive cost-share payments for BMP's which he contracted to install. The Federal share of the costs of the contract may exceed 50 percent if the benefits are primarily offsite and result in a financial burden on the participant which would probably prevent him from participating in the program.

Comment. The appeals process for settling contract disputes should have an informal procedure as well as a formal procedure. Appeals of determinations prior to execution of the contract should include a broader range of terms.

Response. The regulations have been modified to provide for both formal and informal appeals.

Comment. The 3-year establishment or operations and maintenance period should be deleted or reduced.

Response. This period has been reduced to 1 year.

Comment. Contracts that are terminated may cause financial hardship on participants when refunds are required. Set-off should not be made against cost-share payments if a participant has displayed credit stability. Forgiveness of refunds should be addressed in the regulations when burden is involved.

Response. The regulations have been revised to require the administering agency to develop a process for collecting outstanding debts. That process will detail the handling of refunds when financial burden or hardship is involved. State Conservationist, SCS, must concur in payment adjustments and refunds resulting from violations.

Set-offs will only be made when the participant has failed to meet a financial obligation to the United States and is listed in the county indebtedness register maintained by ASCS.

Comment. Is the power-of-attorney signature acceptable for the person who controls land for the proposed contract period?

Response. Power-of-attorney will only be used where extenuating circumstances exist to the extent that the Administrator, SCS, authorizes its use on a case-by-case basis.

Comment. What guarantee does a contractor have that he will be paid by the landowner?

Response. It is the responsibility of the participant to contract or arrange for the installation of BMP's. If he chooses to enter into an installation contract, payment for services provided is a matter between the participant and the contractor. The regulations do provide for direct payment to suppliers of materials when the contract authorizes such payments.

Comment. Contract periods of less than 5 years or more than 10 years should be considered. This would increase program participation.

Response. The Act specifies that the minimum length of the contract shall be 5 years and the maximum length shall be 10 years.

Comment. If the RCPW is designed to achieve its objectives in the most cost effective manner possible, why should substitution of another measure be proposed? If "the state-of-the-art" advances to a degree that replacement of a measure is recommended, who is to pay for removal of the old measure and installation of the replacement?

Response. The regulations must provide flexibility. They permit modification of contracts to substitute BMP's in response to changing circumstances especially improved pollution abatement technology. It would not be cost effective to preclude such changes. It is not anticipated that BMP's previously installed and cost shared will be removed as a result of new technology. If such a situation arises, it will be analyzed and a decision made based on its specific merits.

Comment. The administering agency should issue contract modifications and SCS should concur on all modifications. Districts or others who may be providing technical assistance should be responsible for modification signoff. Also, provision should be made for waiving the requirements of active contracts by the administering agency with concurrence by the SCS State Conservationist when necessary.

Response. The regulations were modified to place the responsibility for issuing contract modifications on the administering agency. SCS is responsible for the technical requirements of the water quality plan and will sign off on changes to the plan. SCS will concur in all contract modifications that affect the technical aspects of the water quality plan. Waiver of contract requirements may only be made through the termination or modification procedures in the regulations.

Comment. The section concerning contract modification should be changed to include as a condition for a modification, deterioration of the BMP beyond the control of the landowner, substitution of BMP's, time, and farm operations and management.

Response. The regulations provide for these considerations. Some editing was done to more clearly provide for changes in time schedules through the contract modification process.

Comment. The participant should not have the burden of applying for payment and financing the BMP's until they are certified. Also, is interest an includable cost?

Response. This section of the regulations has been modified. Application of BMP's must be made prior to payments being made. The Authorizations for Payments to Suppliers section of the regulations provide for advance payments to suppliers of materials or services which will reduce a participant's out-of-pocket expenses. This process must be prescribed in the participant's contract. Application for payment is the sole responsibility of the participant.

Comment. If conservation districts are required to "approve" the water quality plan, the districts may then find themselves in some conflict during the implementation stages. Possibly the districts should "review" rather than approve.

Response. Section 35(j)(1)(i) of the Act is specific in saying, "to effectuate a plan approved by a soil conservation district, where one exists * * *."

Comment. Participant should be permitted to recover property damages associated with Federal, State, and local agency access to property. Also, time of access should be reasonable and limited to technical assistance and work performance needs only.

Response. Damages caused by Federal employees in performance of official duties are covered under the Federal Tort Claims Act, and the participant may seek redress under the Act. Damages caused by non-Federal employees must be recovered under appropriate State or local laws. The regulations have been edited to clarify that access is limited to that necessary for technical assistance and inspection of work performed under contract.

Comment. The regulations should be revised to include a provision to forgive indebtedness in those cases where the signatory party dies and heirs desire to carry on the farm operation (with the RCWP obligation) or when the repayment of cost-share payments would force sale of the estate.

Response. Section 634.26 has been revised to provide greater flexibility in modifying existing contracts and in the repayment of cost-share payments.

Comment. Change "having control over such land" to "having sold such land."

Response. The regulations must treat transfers of property as well as sales since a participant will have violated his contract when he loses control of the land unit.

Comment. Regarding collection of Federal funds when (1) the grant with an administering agency is terminated, or (2) a participant violates his contract: To what extent is the administering agency responsible for repayment of cost-share funds paid to participants when they violate their contract and refuse to refund monies owed to the administering agency of U.S. Government?

Response. The administering agency is responsbile for collecting funds from the participant who violates his contract under the conditions of the grant agreement. Failure to make a good faith effort to recover grant funds owed by a participant is a basis for grant suspension or termination. The participant would be placed on the ASCS Debt Register and would not be eligible for further cost-share payments from USDA until the debt is set off.

Comment. Editorial changes requested—strike "negligent" as a contributing cause consideration for violation in § 634.28(d)(1). Add "knowingly" to (d)(2) and (d)(5) to reduce the range of violations.

Response. Experience with long-term contracting in the Great Plains Conservation Program indicates that negligence must be addressed when BMP's are destroyed or rendered inoperative. Adopting a BMP-defeating practice or misusing an authorization must be considered a violation, whether performed knowingly or otherwise.

Comment. A time limit should be placed on maximum length of time for the administering agency to notify the participant of any contract violations. Also, reopening a hearing by the administering agency should not be allowed.

Response. The regulations have been edited to read "The administering agency shall within 30 days make a determination * * *." Provision for reopening of a hearing prior to a final decision by the administering agency is required to protect the interests of both the participants and the administering agency.

Comment. The regulations should be revised to add "extent of violations of the State water quality management plan" as a factor to be considered in cost-share payment adjustments.

Response. A review of State 208 water quality management plans indicates that those plans may not be sufficiently specific or definitive to permit assessments of the effects of an individual contract violation on the State plan.

Comment. The right of the Administrator, SCS, to revise the contract violations section at any time, except where adverse effects may be experienced and upon proper notice to the participant, should be deleted.

Response. This section is needed to provide for changes in the violations appeals process and to protect the interests of participants if changes are necessary. This reservation in no way negates the appeals process or reduces the rights of participants.

Comment. Hearings for contract violations should be held in the area where the violation occurs.

Response. Selection of the location of the hearing is the responsibility of the administering agency. SCS will, as a part of program administration, encourage the administering agency to hold appeal hearings in the project area.

Comment. The requirements that agreed-to-items of work must be accomplished within 1 year following the year shown in the plan time schedule is not workable. It should allow for completion anytime prior to the last year on the contract.

Response. The regulations clarify that the participant may install BMP's anytime up to the year scheduled in the contract and 1 year beyond the year scheduled without a modification of the contract. This requirement reduces paper work and serves as the basis for the management of funds and the personnel needed to assist the participant. The Act provides that contracts include a schedule for carrying out the participant's plan.

Comment. The contracting period should not be limited to 5 years.

Response. The 5-year contracting period was established as criteria for measuring the progress of the administering agencies in fulfilling the provisions of the grant agreement. The regulations were revised to permit additional contracts to be signed if an adequate level of participation has been achieved and the designated management agency assures a significant increase in participation can be reached in a reasonable time.

Comment. The appeals board should be composed of representatives of the RCWPCC at the project, State, and national level.

Response. The definition has been edited to provide for SCS approval of the appeals board membership. Otherwise, membership is left up to the administering agency. Designation of coordinating committee representation will only reduce the flexibility of administering agencies in selecting the members. The intent of using the grant process for funding RCWP is to allow to the fullest extent practicable, use of State and local authorities for administering the program and not to impose a single national system on the program.

Comment. It is our position that payment to vendors creates unnecessary paperwork and reduces landowner commitment to the practice.

Response. The provision for direct payment to vendors has been retained in the final regulations because it provides necessary flexibility at the project level. It permits more prompt payment to suppliers in cases where it would be necessary for the participant to borrow money or await receipt of the RCWP cost-share funds before he could pay the supplier. USDA considers this provision an incentive to participants that would increase their willingness to carry out their contracts.

Comment. There is a major discrepancy between the State or local administering agency's handling of changes in ownership and the procedure followed by USDA (ASCS).

Response. The regulations apply uniformly to all administering agencies in the event of land ownership changes.

Comment. The regulations should provide for maintenance of cost-shared Best Management Practices. Are cost-share funds applicable to maintaining BMP's? A process should be established to insure that contracted BMP's are maintained after the contract expires.

Response. The regulations require the participant to operate and maintain BMP's during the RCWP contract life. Wording has been clarified to state that cost-share funds are not available for maintaining BMP's. After the contract expires, no contractual relationship exists and, therefore, there is no authority for maintenance of BMP's. Participants will be encouraged through ongoing programs to continue the maintenance of BMP's.

Comment. The administering agency should not duplicate material sampling or inspection when SCS is certifying the completed practice.

Response. The administering agency is responsible for all contract administration, inspections and quality control. However, when authorizations for payments to suppliers are used, SCS reserves the right to inspect materials prior to their use.

COSTS (§ 634.5)

Comment. We are concerned about the total overhead costs of administering RCWP at all levels, including monitoring and evaluation costs and technical assistance.

Response. Administrative costs include charges for contract administration, personnel, travel, materials, and supplies. These costs do not include monitoring or evaluation. Technical assistance is considered to be an integral part of applying such BMP's as integrated pest management. Because of this, no specific limit is placed on technical assistance costs.

Comment. Specify the maximum amount of overhead costs allowable. We feel that the 5-percent level of administrative costs will decrease effective program administration. There should be some way to increase this level to allow for the eventual effect of inflation on administrative expenses.

Response. Administrative costs as redefined are limited to 5 percent of the Federal share for the cost of best management practices. We believe this level of funding is adequate for effective contract administration.

COST SHARING (§ 634.24)

Comment. The local level should have the authority to determine whether a landowner should receive additional funds because of financial burden.

Response. The regulations now provide for the administering agency to make the determination.

Comment. The 50 percent cost-share level is too low to accomplish adequate landowner or operator participation.

Response. The Act specifies that the cost share is not to exceed 50 percent of the total cost of measures included in the contract, but permits increasing the matching cost share where the main benefits are related to improving offsite water quality and would place a burden on the landowner which would probably prevent him from participating in the program.

Comment. Eliminate the $50,000 cost-share limitation and clarify how the limit would apply to pooling agreements.

Response. The $50,000 cost-share limitations is consistent with the language of the Food and Agriculture Act of 1977. The $50,000 limitation applies to the maximum RCWP payment to any one participant, including those in pooling agreements.

Comment. The regulations should provide for more flexibility to modify cost-sharing levels during project implementation. The authority to modify should be delegated to the local coordinating committee. Also, the local level should be involved in determining the initial cost-share level.

Response. The regulations have been amended so that the administering agency in consultation with the county ASC committee, conservation district, and designated management agency may modify cost-share levels for individual BMP's so long as the total amount of cost sharing does not exceed 50 percent of the cost of the contract unless a variance has been granted. The administering agency will set the maximum cost-share levels for each BMP.

Comment. Are annual practices eligible for cost sharing?

Response. The regulations provide for cost sharing on any approved BMP. Annual practices must be approved as a BMP to be eligible for cost sharing.

Comment. In § 634.25(a) of the proposed regulations, it is stated that "Cost-sharing payments cannot be provided for any measure initiated before the contract is approved * * *." The particular language will undoubtedly delay the implementation of water quality plans under section 208, especially in those areas that will attempt to qualify for RCWP funds. No farmer or rancher is going to implement a series of new and costly management practices if he cannot get matching funds for them. Furthermore, many lending institutions with the knowledge that cost-sharing funds could be made available at a future date would not loan a farmer or rancher the additional money still needed until the matching funds were actually there.

Response. In areas selected for RCWP funding, the delay in time between project funding and execution of participant contracts should be minimal. The requirements set out in the definition of adequate level of participation, i.e., 50 percent in 3 years and 100 percent in 5 years, are specifically intended to minimize that delay. In areas with less severe or lower concentrations of agricultural nonpoint source water quality problems, it is anticipated that the approved agricultural portion of the 208 plan will identify other programs and sources of funding that may be used to assist in the application of BMP's.

Comment. Cost sharing and technical assistance should be made available for nonstructural measures, and for education programs.

Response. The regulations have been revised to include a definition for technical assistance cost. This definition is intended to be broad enough to allow technical assistance for any BMP, structural or non-structural, and for appropriate education programs within a project. The regulations provide for cost sharing of non-structural measures which are eligible BMP's.

Comment. Remove the reference to drainage in the rules and regulations to avoid the erroneous impression that drainage should never be a best management practice. The exclusion of measures installed primarily for increasing crop production adequately focuses the program on water quality.

Response. Installation of drainage practices in conjunction with or as a part of an approved BMP may be cost shared. For example, tile outlets installed as a part of a terracing system would be eligible when terracing is an approved BMP. The final regulations could not be finalized without reference to such practices. If the application clearly documents that certain drainage practices are essential for achieving the water quality objectives of the project, such an application may be approved.

ELIGIBLE LAND (§ 634.20)

Comment. The restriction placed on corporate ownership for program assistance will be detrimental to the RCWP.

Response. Corporations may qualify for cost-share assistance if it can be documented that the installation of BMP's places an inappropriate financial burden on the corporation.

Comment. What lands in a project area are eligible for cost sharing? Shouldn't the entire project area be eligible for cost-share assistance since the sources are not always well definable, and the cause effect relationships of control practices are not a precise science?

Response. The regulations provide that, in a project area, all privately owned lands with critical areas or sources of nonpoint source pollutant problems are eligible for financial and technical assistance. This is based on the Conference Report for Pub. L. 95-217 which stated that use of RCWP funds is to be limited to private lands.

FINANCIAL MANAGEMENT (§ 634.40)

Comment. Budgeting, accounting, and reporting requirements duplicate existing State (local) recordkeeping systems. The administering agency should assist in providing standards and specifications for budgeting, accounting, and reporting that is acceptable to SCS.

Response. The regulations provide for the use of OMB Circular A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments. All grant programs administered by the government must meet the minimum recordkeeping and accounting requirements of the OMB prescribed requirements. The State or local system must meet the minimum prescribed procedures. A duplicative system is not required.

FUNDING (§ 634.40)

Comment. Section 634.12 should specify that the State agricultural 208 plan set priorities for funding project areas in the State.

Response. This section was deleted to eliminate redundancy. Section 634.4 specifies that the Governor will establish priorities for RCWP project areas in the State. Section 634.13 further states that applications for project areas are to be consistent with the approved agricultural portion of a 208 plan.

Comment. Program grants to States should be used rather than funding from the national level to RCWP project areas. Alternatively, 50 percent of the funds should be allotted to project areas and 50 percent to statewide use outside of project areas.

Response. Careful consideration was given to use of program or formula grant to States. It was concluded that given the limited funding that can be anticipated and the intent of the legislation to focus on cirtical areas, it is necessary to use the project grant approach. The RCWP Environmental Impact Statement documents that the most critical agricultural nonpoint source water quality problems are concentrated in certain geographic areas of the country.

Comment. Several States questioned whether those States with ongoing cost share programs should receive greater consideration for approval of additional RCWP projects. One of these inquired as to the amount of weight to be given on funding priorities and what guidelines would be given such local cost-share programs. One posed the possibility of fund management regulations for federally funded projects conflicting with State or local fund management. Some opposed special consideration being given to States with ongoing cost-share programs saying that priority shall be based on water quality problems and that otherwise States should be treated equally.

Response. The regulations are designed to provide flexibility in local administration of an RCWP project. States or local governments with their own cost-share programs may receive greater consideration for funding of RCWP projects because it will provide an additional incentive for participation.

Comment. The county ASC committee should make all cost-share payments under RCWP.

Response. Making cost-share payments is defined as a part of administering the project. The Act provides that where practicable, all or part of the program will be administered by a soil conservation district, a State soil and water conservation commission, or a State water quality agency. To ex-

clude these agencies from making cost-share payments would be inconsistent with the Act. It is anticipated that in many projects, it may not be practicable for State or local agencies to act as the administering agency. The responsibility for making cost-share payments will then fall to ASCS through the county ASC committee system.

Comment. What recourse exists if ASCS fails to administer RCWP funds properly or cannot meet project objectives?

Response. RCWP funds appropriated to SCS may be transferred to ASCS when that agency is designated to be the administering agency for a RCWP project. This transfer will be made under a National Memorandum of Understanding between ASCS and SCS, which will define the responsibilities of each agency. Failure of ASCS to fulfill the terms of the agreement may result in withdrawal of transferred funds and/or projects termination.

Comment. Who decides which of the agencies eligible under the Act shall be the administering agency? Should those responsibilities fall to the soil conservation district, we question the willingness of the directors to accept them.

Response. The application for an RCWP project will include the recommendation of an eligible State or local agency to serve as the administering agency or request USDA to be the administering agency. The Administrator, SCS, upon recommendation of the NRCWCC, will approve applications for funding including the designation of the administering agency. Concurrence of the Administrator, EPA, is necessary before a project may be funded. If conservation district directors are unwilling to accept the necessary administrative responsibilities, they will not be approved.

Comment. The Rural Clean Water Program might better be patterned after the successful ASCS cost-sharing program. Forget the "project area" designation, and encourage individual farmers to enroll and cooperate.

Response. The intent of the Act is to focus limited resources on solving agricultural nonpoint source water quality problems in critical areas. It is important to concentrate the RCWP effort in relatively small areas where significant water quality improvement can be achieved within the time limits established by the Act.

LEVEL OF PARTICIPATION (§ 634.5)

Comment. The required 50 percent participation level within the first 3 years is too restrictive.

Response. The requirement has been retained. We believe that a level of achievement must be scheduled to insure that the objectives of the RCWP are being accomplished. Therefore, it is specified that at least 50 percent of the adequate level of participation be achieved in 3 years or less.

Comment. The assurance of 75 percent participation is unrealistic and can't be guaranteed by the management agency.

Response. Section 634.5(a) indicates that exceptions to the 75 percent level of participation rule can be made for those areas where the approved agricultural portion of the 208 plan provides data and analysis which indicates that a greater or lesser percentage of the critical area or source treated is needed to attain water quality standards or water quality goals. The adequate level of participation is considered to be achieved when participants having control of 75 percent of the identifed critical areas or source (or that percentage allowed in an approved exception) of the pollutant problem in the project area are under contract. The designated management agency is to submit in the project application a strategy for achieving an adequate level of participation in 5 years or less.

MONITORING (§ 634.50)

Comment. The final RCWP regulations should specify that pre and post BMP implementation monitoring are necessary to determine effects on water quality.

Response. Section 634.50 (a)(6) recognized the need for preproject monitoring to evaluate the effectiveness of BMPs in improving water quality. Postproject monitoring will continue according to and to the extent agreed upon in the monitoring and evaluation plan developed under § 634.50(a)(3).

Comment. It is important to develop water quality monitoring programs to assess current conditions and specify areas where water quality limitations exists, ultimately evaluating water quality trends resulting from the RCWP.

Response. We agree that surveys to establish baseline conditions are necessary. The data derived from them will serve as the base for the monitoring and evaluation plan developed under § 634.50(a)(3).

Comment. The policy of preference for areas with long-term baseline data restricts rural States from receiving national priority because of a lack of funds and resources in the past to gather these data.

Response. The preference for long-term baseline as stated in § 634.50(a)(6) does not restrict any State from receiving project authorization. The criteria for the selection of projects in § 673.14 is independent of the criteria for the selection of projects for monitoring. In selecting projects for monitoring, preference will be given to those with good baseline data for measuring project effects on water quality.

Comment. As soon as possible, USDA and EPA should be encouraged to issue criteria they will use in selecting projects to be monitored.

Response. USDA is developing a program procedural manual to aid in implementing the RCWP. This manual will contain guidance for the selection of projects to be evaluated. Such guidance will be flexible. Criteria may vary from year to year, based on program needs. Notice of availability of the manual will be published in the FEDERAL REGISTER.

Comment. A positive testing and monitoring program should be established to evaluate and document RCWP effects on fishery resources.

Response. RCWP monitoring and evaluation activities established in § 634.50 of the regulations will evaluate and document changes in the stream regime that result from program implementation. Where appropriate, biological sampling and evaluation will provide information of effects on fishery resources.

Comment. What is the source of funding for the water quality monitoring and evaluation of selected projects?

Response. Water quality monitoring will be funded from RCWP appropriations and other authorizations.

Comment. The regulations assume that monitoring and evaluation can measure in great detail the water quality improvement resulting from project actions. To do that accurately with scientific quality would probably cost as much money as available in the entire program.

Response. Monitoring and evaluating project effects of improved water quality is a complex and potentially costly process. Therefore, only selected representative projects will be provided funds for comprehensive monitoring and evaluation set forth in § 634.50(a). It is essential that project and BMPs effectiveness in improving water quality be carefully measured and evaluated. A monitoring and evaluation plan, including anticipated funding needs, will serve as the basis for a project area selected for monitoring.

Comment. Results of monitoring studies should be made available in simplified form to program participants so that adjustments in emphasis of BMPs can be made on an ongoing basis.

Response. All data and results from RCWP water quality and monitoring evaluation efforts will be available to the public.

Comment. Section 634.40 should be amended to provide for concurrent authority of the appropriate manage-

ment agencies in the selection of projects to be monitored.

Response. The selection of projects to be monitored is to be based on national program needs for information on representative agricultural pollutant problems. The regulations provide for the involvement of other Federal, State, and local agencies in developing the plan for water quality monitoring and evaluation.

Comment. EPA and State agencies should monitor water quality related to RCWP projects and SCS should monitor the effectiveness of BMPs.

Response. An adequate project water quality monitoring and evaluation plan must include provisions for collection of chemical, physical, and biological water quality data, climatic data, land use data, and data relative to BMP application. The effectiveness of project BMP's in improving water quality will be addressed through a coordinated land-water evaluation approach. The exact role of each local, State, or Federal agency involved in monitoring project water quality will vary from project to project and will be specified in the plan for water quality evaluation developed by USDA and EPA with assistance from appropriate agencies.

Comment. Will SCS be monitoring the receiving waters?

Response. Section 634.50 of the regulations establishes a joint USDA/EPA monitoring and evaluation program. SCS will not establish independent monitoring capability but will use the expertise of other appropriate Federal, State, and local agencies.

Comment. Section 634.40(a)(7)(i) should be clarified and require that water quality monitoring be conducted upstream and downstream near the drainage outlet of the project area. This section should be further amended to provide for assessment of BOD demands and changes in water quality during and after rainfall.

Response. Because of the site specificness of water quality monitoring and evaluation, reference to specific water quality parameters has been deleted from the final regulations. Parameters for projects selected for monitoring will be detailed in the monitoring plan and be selected to answer specific questions relating to a particular project. The plan must recognize the interdependence of nonpoint source pollutants, rainfall events, and runoff. Hydrographs and pollutant graphs will normally be included in monitoring. Monitoring upstream and downstream near the project area's drainage outlet will in most cases be necessary to adequately evaluate project effectiveness in improving water quality.

Comment. The regulations should require that monitoring data from 208 plans be submitted to assist in overall evaluation.

Response. Useful monitoring data from 208 plans will be used in the development of the plan for water quality monitoring.

NATIONAL RURAL CLEAN WATER COORDINATING COMMITTEE (§ 634.4)

Comment. Nutrient/pesticides task group should be appointed to advise the National Rural Clean Water Coordinating Committee.

Response. Nutrient/Pesticide expertise exists within the agencies that make up the National Rural Clean Water Coordinating Committee. The committee may assemble staff task groups to provide advice on any relevant water quality subject.

PROGRAM OBJECTIVE (§ 634.2)

Comment. The definition of a "RCWP Project Area" and the proposed procedure for approval of projects would result in a regional imbalance of RCWP funds toward agricultural related water quality problems.

Response. The RCWP as defined by the regulations will result in regional imbalance in the distribution of RCWP funds to the extent that critical agricultural nonpoint source water quality problems are not uniformly distributed across the country. The RCWP Environmental Impact Statement documented that the most critical nonpoint source water quality problems in rural areas result from agricultural uses of land. The intent of the Act was to focus on the critical problem areas; therefore, USDA will limit the use of RCWP funds to solving agricultural nonpoint source water quality problems.

Comment. The Agricultural Conservation Program (ACP) has objectives different than the objectives of RCWP. Therefore, the administration of the two programs should be kept separate.

Response. It is essential that Federal and non-Federal programs work together to achieve common objectives with maximum efficiency and a minimum of duplication. Accordingly, RCWP must be coordinated with ACP and similar programs.

Comment. Is the objective of improved water quality in rural areas to be achieved in the most cost effective manner possible for the U.S. Government, for the landowner, or both?

Response. In determining cost effectiveness, the total costs to the Government, the landowner, and others affected by pollution control efforts will be considered. The intent is to help achieve National water quality objectives with a minimum of total private and social costs.

PROJECT APPLICATIONS (§ 634.13)

Comment. Project approval might be political and biased and not based on facts. One commenter suggested that a debriefing process be specified in the rules so as to advise sponsors of non-approved applications as to the objective reasons for non-approval. Other comments requested that the regulations be worded to require citizen participation during the preparation of the application and evidence of farmer support and commitment to the project as a criteria for project approval.

Response. The sections on project applications and review, and approval of project applications have been revised so as to facilitate presentation of objective data and to require public involvement. The SRCWCC is to assure that a process exists for public participation, expecially by potential RCWP participants, and to prepare RCWP project applications. A primary purpose of public participation will be to develop evidence of farmers support and commitment to the project.

Comment. Why can't the Governor submit applications directly to the Administrator, SCS, rather than through the State Conservationist?

Response. The program has been structured to require that the Governor submit applications to the Administrator, SCS, through the State Conservationist, SCS, to facilitate processing of applications. The State Conservationist is responsible to the Administrator, SCS, for RCWP in each State.

Comment. Would conditional approval of a 208 plan qualify for RCWP eligibility agricultural plan?

Response. A proposed RCWP project area must be included in an approved agricultural portion of a 208 water quality management plan to be eligible for assistance so long as any conditions placed on the approval do not make the plan unacceptable as a basis for RCWP. It is possible for the agricultural portion of a 208 water quality management plan to be approved before approval of the entire 208 plan.

Comment. There should be more flexibility and simplicity in the application components. Applicable data from the 208 plan should be used. Resources are not available locally to prepare the project application and SCS should provide additional help to properly prepare project application.

Response. The regulations have been modified to provide more flexibility and to limit detail to that sufficient to permit NRCWCC to evaluate the application. Maximum use of existing data is encouraged. RCWP funds may not be used for preparing project applications, but SCS may provide assistance as a part of its participation in the continuing planning process.

Comment. There were expressed concerns about the criteria for the NRCWCC review of project applications. They pointed out duplication of items under project application and suggested that the criteria should be a part of that section. Several questioned the feasibility of applying the criteria without more guidance as to how they are to be applied. It was suggested that aesthetic benefits be recognized and stressed flexibility in the review process.

Response. Appropriate sections have been rewritten to remove duplication, reduce complexity provide a cross reference between sections, and to clarify how the criteria will be applied. Section 634.14(a)(2) provides the opportunity to recognize aesthetics as a beneficial water use.

Comment. Much of what is addressed in the administrative portion of the rules and regulations is better addressed by the States' 208 plan. The RCWP should tie directly to the States' 208 plan. As proposed, it may not.

Response. The RCWP will only provide assistance on lands in project areas where there is an approved agricultural portion of a 208 water quality management plan. RCWP projects must be consistent with the approved agricultural 208 plan.

Comment. The proposed rules and regulations do not allow for areawide 208 planning agency involvement.

Response. The regulations state that the preparation and submission of project applications are to be based on the priorities, data, and information in the approved agricultural portion of the State or areawide 208 plan. A representative of the areawide agencies is to be a member of the SWRCC.

Comment. The 45-day period for review of project applications by EPA is too short.

Response. EPA has members on both State and National Rural Clean Water Coordinating Committees, and will have current information necessary for concurring in projects selected for funding. That agency has agreed that concurrence is possible within 45 days after receipt of project applications.

Comment. There should be some form of regional (interstate) input in project selection prior to final selections by the National Rural Clean Water Coordinating Committee.

Response. One of the responsibilities of the SRCWCC is to assure that a process acceptable to the member agencies must be developed for the preparation of RCWP applications. Where a potential application may impact on more than one State, the application must provide evidence that the process, including public participation, involves consultation among those affected in order for the application to be acceptable to the NRCWCC.

PROJECT APPROVAL (§ 634.14)

Comment. The provision that the Governor is the final approving agent for the application is not clear.

Response. The Governor establishes priorities for project applications and coordinates this activity with the SRCWCC. The Governor then submits applications in order of priority to the Administrator of SCS through the State Conservationist, SCS. The Administrator, SCS, selects those projects to be funded based on the recommendation of the NRCWCC and the concurrence of the Administrator, EPA.

Comment. Appropriate sections of the proposed rules and regulations should be modified to reflect increased or decreased eligibility of projects due to their amenability to water quality monitoring.

Response. Section 208(j)(4) directs the Secretary of Agriculture to give priority to those areas and sources that have the most significant effect upon water quality. Consequently, the regulations base project eligibility on the severity of the water quality problem caused by agricultural and silvicultural related pollutions. Criteria used to select those projects to be monitored will reflect the ability of a project to be monitored.

Comment. State and local organizations and units of government should be notified of pending project authorization and funding.

Response. Section 634.13(a) of the regulations require that project applications will be submitted in conformance with OMB Circular A-95. That process is designed to assure that local and State governments are notified of pending RCWP funding and have an opportunity to assess that potential funding relative to their specific programs and interests. Section 634.14(d) requires that upon approval of an RCWP project, the State Conservationist, SCS, through the SRCWCC, will inform other involved Federal, State, and local agencies.

PROJECT AREA (§ 634.12)

Comment. We object to the statement. "Generally, the project area will be less than 200,000 acres." We consider this an arbitrary figure that might prevent approval of many worthwhile projects under the RCWP.

Response. The statement in question has been retained. The term "Rural Clean Water Program Project Area" in § 634.12(c) permits a variance from a hydrologically related unit of land area. The word "generally" precedes the 200,000 acre figure to permit exceptions.

SILVICULTURE (§ 634.5)

Comment. Reference should be made to silviculture within the RCWP since many States will be preparing a plan for controlling nonpoint sources of pollution from silviculture separate from their agricultural plans.

Response. The definition of agricultural nonpoint source pollution includes silviculture nonpoint source pollution. The silvicultural portion of a 208 plan may serve as the basis for the BMP's recommended for assistance in the RCWP application.

STATE PARTICIPATION (§ 634.4)

Comment. The SRCWCC should be co-chaired by the SCS State Conservationist and the Governor or his designee.

Response. The SCS provides the chairmanship of the SRCWCC to assure continuity with the chairmanship of the NRCWCC in administering RCWP.

WILDLIFE HABITAT (§ 634.30)

Comment. Farmers cannot be held liable for deterioration of waterfowl or wildlife habitat resulting from the application of BMP's.

Response. The planning and analysis necessary in developing the 208 plan and preparing an RCWP project application will consider effects on habitat caused by the installation of BMPs. The plan and the application must be consistent, and waterfowl and wildlife habitat should be enhanced by the installation of BMPs and improved water quality.

An environmental impact statement (EIS) for RCWP was filed in the FEDERAL REGISTER on September 6, 1978. Notice of availability of the final EIS was published on September 19, 1978. (43 FR 42036.)

A regulatory impact statement is also available from SCS at the address listed above.

The regulations are believed to be in compliance with the March 24, 1978, Executive Order 12044.

Dated: October 24, 1978.

NORMAN A. BERG,
Associate Administrator, Soil Conservation Service.

Concurred:

Dated: October 25, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management, Environmental Protection Agency.

7 CFR is amended by adding a new "Part 634—Rural Clean Water Program" to read as follows:

PART 634—RURAL CLEAN WATER PROGRAM

Subpart A—General

Sec.
634.1 Purpose and scope.
634.2 Objective.
634.3 Administration.
634.4 Responsibilities.
634.5 Definitions.

Subpart B—Project Authorization and Funding

634.10 Applicability.
634.11 Availability of funds.
634.12 Eligible project areas.
634.13 Project applications.
634.14 Review and approval of project applications.
634.15 Agreements.
634.16 Suspension of grants.
634.17 Termination of grant agreement.
634.18 Termination of projects.
634.19 Project completion and closeout.

Subpart C—Participant RCWP Contracts

634.20 Eligible land.
634.21 Eligible participants.
634.22 Application for assistance.
634.23 Water quality plan.
634.24 Cost sharing.
634.25 Contracting.
634.26 Contract modifications.
634.27 Cost-share payment.
634.28 Appeals not related to contract violations.
634.29 Violations.
634.30 Appeals in USDA administered projects.
634.31 Appeals of contract violations.

Subpart D—Financial Management

634.40 Financial management.
634.41 [Reserved]

Subpart E—Monitoring and Evaluation

634.50 Program and project monitoring and evaluation.
634.51 [Reserved]

AUTHORITY: Sec. 35, Pub. L. 95-217, 91 Stat. 1579 (33 U.S.C. 1288).

Subpart A—General

§ 634.1 Purpose and scope.

(a) The purpose of this part is for the U.S. Department of Agriculture (USDA), with the concurrence of the U.S. Environmental Protection Agency (EPA), to set forth regulations to carry out a Rural Clean Water Program (RCWP) under section 35, Pub. L. 95-217; 91 Stat. 1579; 33 U.S.C. 1288.

(b) The Rural Clean Water Program provides financial and technical assistance to private landowners and operators (participants) having control of rural land. The assistance is provided through long-term contracts (5 to 10 years) to install best management practices (BMP's) in project areas which have critical water quality problems resulting from agricultural activities. The proposed project area must be within a high priority area in an approved agricultural portion of a 208 water quality management plan. Participation in RCWP is voluntary.

(c) The program is a new USDA program and an extension of existing water-quality management programs of EPA.

§ 634.2 Objective.

The RCWP is designed to reduce agricultural nonpoint source pollutants to improve water quality in rural areas to meet water quality standards or water quality goals. The objective is to be achieved in the most cost-effective manner possible in keeping with the provision of adequate supplies of food and fiber and a quality environment.

§ 634.3 Administration.

At the national level, the Secretary of Agriculture, with the concurrence of the Administrator, EPA, administers RCWP. The Secretary of Agiculture has delegated responsibility for administration of the program (43 FR 8252) to the Administrator, Soil Conservation Service (SCS). SCS will be assisted by other USDA agencies in accordance with existing authorities.

(a) A National Rural Clean Water Coordinating Committee (NRCWCC), chaired by the Administrator, SCS, is to assist in carrying out the Rural Clean Water Program.

(b) At the State level, a State Rural Clean Water Coordinating Committee (SRCWCC) is to assist the State Conservationist, SCS, in administering the program. The State Conservationist will chair the SRCWCC.

(c) To assure coordination at the project level, a local Rural Clean Water Coordinating Committee is to be established at the time the application is developed. An existing local committee may be used, where practicable, to perform the functions of this committee.

(d) The Administrator, SCS, through the State Conservationists, SCS, is to enter into agreements, where practicable, with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program for a project area. That portion of program administration to be conducted by these agencies will be defined in the project application and grant agreement. Where this is not practicable, USDA will administer the program in a project area. In those instances where USDA retains administration of the program in a project area, SCS will enter into agreements for the transfer of funds to the Agricultural Stabilization and Conservation Service (ASCS) for the administration of part of the program.

§ 634.4 Responsibilities.

(a) *Environmental Protection Agency (EPA) will.* (1) Approve 208 water quality management plans,

(2) Participate in the National and State Rural Clean Water Coordinating Committees,

(3) Review and concur in project applications approved for funding in accordance with § 634.14,

(4) Advise the Secretary of Agriculture of practices which tend to defeat the purposes of contracts with rural landowners or operators in accordance with section 208(j)(1)(iv) of the Act,

(5) Assist USDA in evaluating the effectiveness of the program in improving water quality, and

(6) Concur in the selection of project areas and the criteria for comprehensive, joint USDA-EPA water quality monitoring, evaluation, and analysis in accordance with § 634.50.

(b) *U.S. Department of Agriculture (USDA) will.* (1) With the concurrence of EPA, administer a program to enter into contracts to install and maintain best management practices to control agricultural nonpoint source pollution for improved water quality,

(2) Act through SCS and such other USDA agencies as the Secretary may designate,

(3) Provide technical assistance and share the cost of carrying out best management practices that are set forth in the contracts,

(4) Where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program for a project area,

(5) Administer the program where it is not practicable for soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program for a project area,

(6) Together with local soil conservation districts, determine the priorities for assistance to individual participants to assure that the most critical water quality problems are addressed,

(7) Assist in evaluating the overall effectiveness of the program in improving water quality, and

(8) Within the framework of the 208 planning process, make additional investigations or plans, where necessary, to supplement information contained in the approved agricultural portion of 208 water quality management plans for the purpose of selecting among projects to be funded.

(c) *Soil Conservation Service (SCS) will:* (1) Provide RCWP leadership,

(2) Retain major technical responsibility for RCWP, and provide leadership to assure the adequacy of standards and specifications for use by all administering agencies,

(3) Manage budgeting, accounting, and reporting,

(4) Chair NRCWCC and assure that RCWP applications are distributed to the NRCWCC, including EPA, for review,

(5) For the Secretary of Agriculture, with the concurrence of the Administrator, EPA, approve RCWP projects for funding,

(6) For the Secretary of Agriculture, select and enter into agreements with either soil conservation districts, State soil and water conservation agencies, or State water quality agencies, where practicable, to adminster all or part of the program,

(7) Enter into fund transfer agreements to transfer funds to ASCS in those instances where the administration of contracts is retained by USDA,

(8) Enter into agreements with other USDA agencies, as appropriate, for support which they are to provide,

(9) Chair SRCWCC,

(10) For the Secretary of Agriculture, in coordination with NRCWCC, determine the maximum Federal contribution to the total cost of the project,

(11) Provide technical assistance through soil conservation districts or arrange for other Federal, State, local agencies, or private individuals or firms to provide technical assistance as appropriate,

(12) Provide technical assistance to soil conservation districts and County Agricultural Stabilization and Conservation (ASC) Committees to assist them in determining priorities of assistance among individual participants,

(13) Develop appropriate technical and administrative training programs,

(14) Provide leadership for USDA for comprehensive joint USDA-EPA water quality monitoring, evaluation, and analysis in selected project areas,

(15) Provide leadership for USDA in evaluating the effectiveness of the program in improving water quality,

(16) Carry out the function of soil conservation districts for approving water quality plans where no soil conservation district exists, and

(17) Through the State Conservationist, after considering recommendations of the SRCWCC, reach agreement with the Governor on the recommended administering agency to be included in the project application.

(d) *The Agricultural Stabilization and Conservation Service (ASCS) will:* (1) Participate on the National, State, and local coordinating committees.

(2) Provide guidance to State and County ASC Committees and coordinate the Agricultural Conservation Program (ACP) and the Forestry Incentives Program (FIP) with RCWP,

(3) Where the administration of contracts is retained by USDA, enter into agreements with SCS for the transfer of funds to be allocated to County ASC Committees,

(4) Consolidate reports of the annual cost-share disbursements made by the State ASC Committee, and report these disbursements to SCS,

(5) Furnish data on land use, crop history, and cost-shared conservation measures,

(6) Review plans and contracts to assure coordination with other farm programs, and

(e) *The Forest Service (FS) will:* (1) Retain technical responsibility for forestry,

(2) Provide technical assistance through the State forestry agency (State Forester as appropriate) for planning, applying, and maintaining forestry best management practices, and

(3) Participate on the National, and as appropriate, State, and local coordinating committees.

(f) *The Science and Education Administration (SEA) will:* (1) Develop, implement, and coordinate educational programs for agricultural nonpoint source water pollution control,

(2) Participate on the National, and as appropriate, State, and local coordinating committees, and

(3) Provide technical assistance for appropriate BMP's.

(g) *The Economics, Statistics, and Cooperatives Service (ESCS) will:* (1) Participate on the National coordinating coomittee and, as appropriate, particpate in State, and local coordinating committee activities,

(2) Assist in the economic evaluation of best management practices and RCWP projects,

(3) Make data available from existing and planned ESCS surveys relating to water quality and related matters,

(4) Assist in RCWP evaluation by making available the ESCS land and water resource economic modeling systems, and

(5) Conduct socioeconomic research, within ESCS authorities and funds, on relevant policy and program issues pertinent to RCWP.

(h) *The Farmers Home Administration (FmHA) will:* (1) Participate on the National, and as appropriate, State and local coordinating committees, and

(2) Provide assistance and coordinate their farm loan and grant programs with RCWP.

(i) *The NRCWCC* is chaired by the Administrator, SCS. Other members of the National Committee are the Administrators of ASCS, FmHA, and ESCS; the Chief of FS; the Director of SEA; and the Assistant Administrator for Water and Waste Management, EPA. Non-Federal agencies such as conservation districts, State soil and water conservation agencies, State water quality agencies, and other organizations are invited to attend as observers. The duties of the Committee are to:

(1) Coordinate individual agency programs with the Rural Clean Water Program,

(2) Recommend to the Administrator, SCS, the project applications to be funded,

(3) Advise the Administrator, SCS, on the maximum Federal contribution to the total cost of the project,

(4) Assist the Administrator, SCS, in mediating agency differences at the State level,

(5) Periodically advise the Secretary and Assistant Secretary for Conservation, Research and Education of program and policy issues, and

(6) Recommend project areas and criteria for comprehensive, joint USDA/EPA water quality monitoring, evaluation, and analyses.

(j) The SRCWCC is chaired by the State Conservationist, SCS. Other members of the State committee are the State 208 water quality agency, a designated representative of the areawide agencies, the State soil and water conservation agency, a designated representative of soil and water conservation districts, other State and local agencies or individuals as the Governor deems appropriate, and representatives of the agency members of the NRCWCC. The duties of the committee are to insure that a process exists:

(1) To consult with the Governor or his designee on the Governor's determination of priority project areas,

(2) To assure coordination of activities at the project level by assisting in determining the composition and responsibilities of the local rural clean water coordinating committee,

(3) To prepare the RCWP applications for the Governor to submit to the State Conservationist, SCS, based on priorities established by the Governor,

(4) To incorporate adequate public participation, including public meeting(s), and appropriate environmental assessment in the preparation of RCWP applications,

(5) To monitor and evaluate the RCWP in the State and to assist USDA and EPA in their comprehensive, joint water quality monitoring and evaluation of selected project areas in accordance with § 634.50,

(6) To develop procedures for coordination between conservation districts and county ASC committees and between RCWP and other water quality programs at the local level,

(7) To assist the State Conservationist, SCS, in mediating agency differences at the local level,

(8) To initiate a written agreement setting forth any or all of the above

activities when the Governor and the Secretary of Agriculture or his designee deem it appropriate, and

(9) To make recommendations to the State Conservationist, SCS, concerning the selection of the administering agency to be included in the project application.

(k) The State soil and water conservation agency will, as appropriate:

(1) Assist in preparing and submitting applications for RCWP,

(2) Administer all or part of the RCWP for a project area,

(3) Carry out the responsibilities of soil conservation districts for determining priority for assistance among individual participants where no soil conservation district exists, and

(4) Participate on the State and local coordinating committees.

(l) The State 208 water quality agency will, as appropriate:

(1) Assist in preparing and submitting applications for rural clean water project,

(2) Administer all or part of the RCWP for a project area,

(3) Participate on the State and local coordinating committees, and

(4) Assist in monitoring and evaluating the water quality effectiveness of projects.

(m) The soil conservation district will:

(1) As appropriate, assist in the preparation and submission of applications for rural clean water projects,

(2) As appropriate, administer all or part of the RCWP in a project area.

(3) As appropriate, participate on the local coordinating committees,

(4) Approve participants' water quality plans, and

(5) Together with the county ASC Committee, determine the priority for assistance among individual participants to assure that the most critical water quality problems are addressed.

(n) The county ASC committee will:

(1) Together with the soil conservation district, determine the priorty for assistance among individual participants to assure that the most critical water quality problems are addressed,

(2) Receive applications for assistance for individual participants where USDA retains administration of the program,

(3) Make cost-share payments to individual participants where USDA retains administration of the program, and

(4) As appropriate, participate on the local coordinating committees.

(o) The designated management agency(s) for the agricultural portion of a 208 plan for the project area will:

(1) Assist in preparing and submitting an application for a rural clean water project in an area for which they were designated,

(2) Submit a letter, as part of the project application, certifying that the BMP's proposed for cost sharing are consistent with the BMP's in the approved 208 plan,

(3) Submit a letter, including a schedule, giving assurance that an adequate level of participation in the project will be achieved within 5 years, and

(4) As appropriate, serve as the administering agency.

(p) The administering agency will:

(1) As appropriate, enter into a grant agreement or fund transfer agreement with the Soil Conservation Service for:

(i) Receiving funds from the Soil Conservation Service for administrative costs, cost sharing, and technical assistance, as appropriate, associated with carrying out the project,

(ii) Establishing detailed work schedules in accordance with the approved project application,

(iii) Establishing the maximum amount of administrative costs chargeable to the grant,

(iv) Establishing an adequate financial management system,

(v) Preparing a cost allocation plan,

(vi) Monitoring and reporting performance,

(vii) Reviewing applications for assistance from landowners or operators,

(viii) Certifying availability of funds, and

(ix) Complying with OMB Circular A-102 and other appropriate regulations,

(2) Enter into contracts with participants for the installation and maintenance of BMP's based on water quality plans developed by participants,

(3) Make cost-share payments to participants upon receipt of certification by SCS,

(4) Issue modifications to participant RCWP contracts,

(5) Develop average cost rates for each practice applicable in the project area.

(6) Sample and inspect materials used in the installation of BMP's,

(7) Establish a contract violations and appeals and collections process,

(8) Provide for public involvement in the implementation of RCWP in a project area, and maintain a mailing list of interested individuals and organizations for informing the public about the activities contemplated and carried out in the project area, and

(9) Maintain records, provide necessary facilities, personnel, and legal counsel for carrying out these responsibilities.

(q) The Governor of each State will:

(1) In order to qualify for assistance under RCWP:

(i) Establish priorities for RCWP project areas in the State,

(ii) Coordinate the development of RCWP project applications with the SRCWCC and local agencies,

(iii) Submit, in order of priority, RCWP project applications to the Administrator, SCS, through the State Conservationist, SCS, and

(iv) Recommend an eligible State or local agency to serve as the administering agency of the project, or request USDA to be the administering agency.

(2) Where appropriate, with the State Conservationist, SCS, set forth the activities of the SRCWCC in a written agreement,

(3) Assign additional State and local agencies or individuals to membership on the SRCWCC, as appropriate, and

(4) Reach agreement with the State Conservationist, SCS, in selecting the administering agency.

§ 634.5 Definitions.

(a) *Adequate level of participation.* An adequate level of participation is reached when participants, having control of 75 percent of the identified critical area or source of the pollution problem in the project area, are under contract. Exceptions may be made where the approved agricultural portion of the 208 plan provides data and analyses which indicate that a greater or lesser percentage of the critical area or source treated is needed to attain water quality standards or water quality goals. Fifty (50) percent of the adequate level of participation is to be achieved within 3 years; the remainder within 5 years.

(b) *Administering agency.* A soil conservation district, State soil and water conservation agency, or State water quality agency that enters into an agreement with the State Conservationist, SCS, to administer assigned responsibilities for RCWP projects; or ASCS, when USDA retains contract administration.

(c) *Administrative cost.* Grant and fund transfer costs, including allowable costs incurred by the Administering agency in contract administration. These costs, indirect and direct, include charges for personnel, travel, materials, and supplies. The costs are limited to a maximum of 5 percent of the Federal share for BMP cost.

(d) *Agreement.* A legal instrument reflecting the relationship between SCS and the administering agency for performance of RCWP activities.

(e) *Agricultural nonpoint source pollution.* Pollution originating from existing nonpoint sources that are (a) agriculturally related, including runoff from animal waste disposal areas and from land used for livestock and crop production, or (b) silviculturally related pollution.

(f) *Agricultural portion of a 208 plan.* That portion of the 208 plan

that deals with agriculture and those silvicultural activities related to farming and ranching enterprises.

(g) *Appeals board.* A group of three or more individuals, including a hearing officer, established by the administering agency with the concurrence of the State conservationist, SCS, to review asserted contract violations, hear associated appeals, and report its findings, conclusions, decisions, and recommendations in State or locally administered projects.

(h) *Average cost.* The calculated cost, determined by recent actual local costs and current cost estimates, considered necessary for carrying out BMP's or an identifiable unit thereof.

(i) *Best Management Practice (BMP).* A single practice or a system of practices included in the approved RCWP application that reduces or prevents agricultural nonpoint source pollution to improve water quality.

(j) *BMP cost.* The amount of money actually paid or obligated to be paid by the participant for equipment use, materials, and services for carrying out BMP's or an identifiable unit of a BMP. If the participant uses his or her own resources, the cost includes the computed value of his or her own labor, equipment use, and materials.

(k) *Contract.* The legal document, that includes the water-quality plan and is executed by the participant and the administering agency. It details the agreement between parties for carrying out BMP's on the participant's land.

(l) *Cost-share level.* The percentage of the total cost of installing BMP's included in the participant's contract that is paid by the administering agency.

(m) *Critical areas or sources.* Those finite areas or sources of agricultural nonpoint source pollutants identified as having the most significant impact on the quality of the receiving waters.

(n) *Federal Management Circular FMC 74-4.* "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

(o) *Financal burden.* The participant's contribution to the total cost of BMP's that would be inequitable or probably prevent participation in RCWP.

(p) *Identifiable unit.* A component of a BMP that can be clearly identified in carrying out BMP's in the water quality plan.

(q) *Letter of Credit—Treasury Regional Disbursing Officer System.* The system whereby the letters of credit are maintained and serviced by Treasury disbursing centers and Treasury regional disbursing officers.

(r) *Management agency.* The Federal, State, interstate, regional, or local agency designated by the Governor to carry out the approved agricultural portion of the 208 water-quality management plan.

(s) *OMB Circular A-34.* "Instructions on Budget Execution."

(t) *OMB Circular A-102 (Rev.)* Office of Management and Budget Uniform Administrative Requirements for Grants-in-Aid to State and local governments.

(u) *Offsite benefits.* Those favorable effects of BMP's that occur away from the land of the participant receiving RCWP assistance and accrue to the public as a result of improved water quality.

(v) *Participant.* A landowner or operator who applies for and receives assistance under RCWP.

(w) *Participants water quality plan.* The plan which identifies critical agricultural nonpoint source(s) of water quality problems and sets forth BMP's which contribute to meeting the water quality objectives of the project.

(x) *Privately owned rural land.* Those lands not held by Federal, State, or local governments which include cropland, pastureland, forest land, rangeland, and other associated lands.

(y) *RCWP projects.* The total system of BMP's, institutional arrangements, and technical, cost-sharing, and administrative assistance activities that are authorized in a RCWP project area.

(z) *Standards and specifications.* Requirements that establish the minimum acceptable quality level for planning, designing, installing, and maintaining BMP's.

(aa) *State.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(bb) *Technical assistance cost.* Those direct and indirect costs associated with the preparation and review of participant water quality plans; design, layout and application of BMP's; and investigations associated with monitoring and evaluating progress toward meeting project objectives.

(cc) *Treasury Circular 1075 (Rev.).* Uniform Administrative Requirements for Grants-in-Aid to State and local governments.

Subpart B—Project Authorization and Funding

§ 634.10 Applicability.

RCWP is applicable in project areas that meet the criteria for eligibility contained in § 634.12 and are authorized for funding by the Administrator, SCS.

§ 634.11 Availability of funds.

(a) The provisions of the program are subject to the appropriation of funds by Congress to the U.S. Department of Agriculture.

(b) The allocation of funds to the administering agencies is to be made on the basis of the total funds needed to carry out the project.

(c) The obligation of Federal funds for RCWP contracts with participants is to be made on the basis of the total contract costs.

§ 634.12 Eligible project areas.

(a) Only those project areas which are included in an approved agricultural portion of a 208 water quality management plan, or revised portions thereof, and have identified agricultural nonpoint source water quality problems are eligible for authorization under RCWP. Those critical areas or sources of pollutants significantly contributing to the water quality problems are eligible for financial and technical assistance.

(b) The management agency designated by the Governor under section 208(c)(1) of the Act to implement the agricultural portion of the 208 plan must assure in writing in the project application that there will be an adequate level of participation by land owners or operators with critical areas or sources in a project area.

(c) An RCWP project area is a hydrologically related land area. Exceptions may be made for ease of administration, or to focus on concentrated critical areas. To be designated as an RCWP project area eligibile for authorization, the area's water quality problems must be related to agricultural nonpoint source pollutants, including sediment animal waste, irrigation return flows, runoff, or leachate that contain high concentrations of nitrogen, phosphorus, dissolved solids, toxics (pesticides and heavy metals), or high pathogen levels. Generally, the project areas will be less than 200,000 acres.

§ 634.13 Project applications.

(a) The SRCWCC is to assure that a process exists to prepare the RCWP project applications for submission by the Governor in order of priority to the Administrator, SCS, through the State Conservationst, SCS. This process must include the opportunity for public participation, especially participation by potential RCWP participants. Applications will be submitted in conformance with OMB Circular A-95.

(b) The preparation and submission of applications are to be based on the priorities established by the Governor and data and information in the approved agricultural portion of the

State or areawide 208 water quality management plan.

(c) Applications shall contain the following components. Additional material may be added when, in the judgment of the applicant, it is needed to fully support the application and/or would enhance the probability of project authorization. Information provided under each component shall be in sufficient detail to permit the NRCWCC to evaluate the application using priority criteria in § 634.14.

(1) *Description of the project area,*

(2) *Severity of the water quality problem,*

(3) *Objectives and planned action,*

(4) *Schedule for carrying out the plan, and*

(5) *Estimated cost.* This component is to identify and show the basis for those costs associated with completing the project. The project application shall include an estimate of the total cost of the project, the Federal contribution, and the non-Federal contribution. The Federal contribution shall not exceed 50 percent unless the application, based on offsite benefits and financial burden, show that a higher level is appropriate.

(6) *Estimated water quality benefits and effects.*

(7) *Arrangements for project administration.* This component is to set out the applicant's plan for carrying out the program in the project area. The plan should:

(i) Identify the administering agency and document the capability of the agency to carry out the responsibilities described in § 634.4(p). In addition, information should be included to describe the administering agency staff, the location of that staff relative to the project area, and the experience of the agency in administering comparable grant programs.

(ii) Where appropriate, describe the specific arrangements that have been made, or that are anticipated, for local, State, and Federal agency participation such as technical assistance and other cost-sharing programs.

(8) *Attachments.* The following attachments are the minimum required with each application:

(i) A letter from the water-quality management agency designated by the Governor to carry out the approved agricultural portion of the 208 water quality management plan for the area or source certifying that the BMPs to be cost shared are consistent with the BMP's in the 208 plan,

(ii) A letter from the designated management agency which assures and sets out a strategy for reaching an adequate level of participation (§ 634.5(a)).

(iii) As appropriate, the preapplication for Federal assistance (OMB Circular A-102) from the identified administering agency, and

(iv) A listing of the prevailing cost-share levels of other programs in the project area.

§ 634.14 Review and approval of project applications.

(a) In reviewing applications and recommending priorities, the NRCWCC will consider the following:

(1) Severity of the water quality problem caused by agricultural and silvicultural related pollutants, including:

(i) State designated uses of the water affected,

(ii) Kinds, sources, and effects of pollutants, and

(iii) Miles of stream or acres of water bodies affected,

(2) Demonstration of public benefits from the project, including:

(i) Effects on human health,

(ii) Population benefited by improved water quality,

(iii) Effects on the natural environment, and

(iv) Additional beneficial uses of the waters that result from improvement of the water quality,

(3) Economic, and technical feasibility to control water quality problems within the life of the project, including:

(i) Cost effectiveness of BMP's,

(ii) Size of the area and BMP's needed, and

(iii) Cost per participant and cost per acre for solution of problem,

(4) State and local imput in the project area, including:

(i) Funds for cost-sharing, technical, and administrative costs. States or local governments with their own cost-share programs may receive greater consideration for the funding of RCWP projects,

(ii) Commitment of local leadership to promote the program, and

(5) The project area's contribution to meeting the national water quality goals.

(b) Based on the project applications, the NRCWCC is to recommend an upper limit of the Federal contribution to the total cost of the project.

(c) All project applications will be reviewed by EPA. Project applications approval for funding require written EPA concurrence, except that the Administrator, SCS, may assume EPA's concurrence if EPA does not act within 45 days following receipt of the project application. EPA review of project applications will occur concurrently with review by the NRCWCC.

(d) The Administrator, SCS, will approve projects for funding. The NRCWCC acting through the Chairman will announce the approval of the project. The State Conservationist, SCS, through the SRCWCC, will also inform the other involved Federal, State, and local agencies of the approval.

§ 634.15 Agreements.

The State Conservationist, SCS, upon receiving notice of an approved project, is to enter into a grant agreement with the administering agency, except in those cases where USDA is to administer the program. When USDA retains administration, the State Conservationist, SCS, is to enter into a fund transfer agreement with the State Executive Director, ASCS.

(a) *Grant agreements.* Grant agreements detail the working arrangements and applicable operating regulations between SCS and the administering agency. A written grant agreement identifying the parties involved, their responsibilities for carrying out the program, and the amount of program funds to be encumbered by SCS is to be executed by the parties. This agreement is the fund obligating document. It also sets out the necessary working arrangements between parties for determining and allocating the administering agency's costs. All grants to administering agencies are to be in accordance with OMB Circular No. A-102, Department of the Treasury Circular No. 1075, and Federal Management Circular No. 74-4. State or local administering agency grants will be funded under Letter-of-Credit serviced by the U.S. Treasury Regional Disbursing Office, or by SCS approved advance/reimbursement financing arrangements subject to the terms and conditions of the grant agreement.

(1) The grant agreement will provide for payment of cost-sharing for BMP (§ 634.5(j)) and administrative costs (§ 634.5(c)).

(2) The grant agreement may provide for payment of technical assistance costs when the administering agency has the capability, and the SCS designates that agency to provide this assistance to RCWP participants.

(3) The administering agency is to monitor the performance of activities supported by RCWP grant funds to assure that time schedules and participant RCWP contract requirements are being met. Performance goals are to be measured against the terms of the grant agreement and program directives. When SCS determines that onsite technical inspections, certified completion data, and financial status reports do not provide adequate grant evaluation data, the following information may be requested:

(i) A comparision of actual accomplishments with the objectives established for the plan,

(ii) Reasons why established objectives were not met, and

(iii) Objectives established for the next reporting period.

(4) Grant agreements may be amended by mutural agreement of the parties to the agreement. SCS may unilaterally amend agreements when the sole consideration is a change in the cost and the Administrator, SCS, based on NRCWCC recommendations, determines that such an adjustment is necessary to carry out the program efficiently and effectively.

(b) *Fund transfer agreements.* When it is impractical for SCS to enter into agreements with local soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer the program in a project area, USDA will retain program administration. In this case, the State Executive Director, ASCS, and the State Conservationist, SCS, are to enter into an agreement for the transfer of funds to ASCS through county ASC committees for activities included in administrative cost (§ 634.5(c)) and BMP cost (§ 634.5(j)). The following general working arrangements are to apply:

(1) Administering contracts, making cost-share payment, and program reporting are to be provided by ASCS as the administering agency.

(2) SCS, or its designee, with appropriate Federal or State agency support, will provide technical assistance to participants in preparing RCWP contracts and in carrying out their water-quality plans.

(c) *Agreements for services.* SCS may enter into an agreement for services with a State or local agency. The designee must meet the requirements of OMB Circular No A-102.

(d) *Contracts for services.* SCS may enter into contracts for services with individuals or firms for providing technical assistance.

§ 634.16 Suspension of grants.

(a) *Suspension orders.* Work on a project or on a portion or phase of a project for which a grant has been awarded, may be suspended by order of the State Conservationist, SCS. Suspension does not affect RCWP contracts existing at the time the suspension order is issued, or the administering agency's responsibility to make payments under such contracts unless specifically provided for in the suspend order. In no event will the participant's right to cost-share payment be diminished by action taken under this section.

(b) *Use of suspension orders.* Suspension may be required for good cause, such as default by the administering agency, failure to comply with the terms and conditions of the grant, realignment of programs, or advancements in the state of the art.

(c) *Contents of suspension orders.* Prior to issuance, suspension orders will be discussed with the administering agency and may be appropriately modified, in the light of such discussions. Suspension orders are to include:

(1) A clear description of the work to be suspended,

(2) Instructions as to the issuance of further orders by the administering agency for materials or services,

(3) Instructions as to the administering agency entering into new RCWP contracts in the project area,

(4) Instructions as to the administering agency servicing existing RCWP contracts in the project area, and

(5) Other instructions to the administering agency for minimizing Federal costs.

(d) *Issuance of suspension order.* Suspension orders are issued by the State Conservationist, SCS, by letter to the administering agency (certified mail, return receipt requested). A suspension order may not exceed forty-five (45) calendar days.

(e) *Effect of suspension order.* (1) Upon receipt of a suspension order, the administering agency shall promptly comply with its terms and take all reasonable steps to minimize costs allocable to the work covered by the order during the period of work suspension. During the suspension period, SCS shall either:

(i) Cancel the suspension order, in full or in part, and authorize resumption of work, or

(ii) Take action to terminate the work covered by such order as provided by § 634.17.

(2) If a suspension order is canceled, or the period of the order expires, the administering agency shall promptly resume the suspended work. An equitable adjustment shall be made in the grant period, the project period, or grant amount, or all of these, and the grant agreement may be amended:

(i) The suspension order results in an increase in the time, or cost properly allocable to, the performance of any part of the project; and

(ii) The administering agency asserts a written claim for such adjustment within thirty (30) days after the end of the period of work suspension. If no written claim is made, SCS may unilaterally make such adjustments.

(iii) Reasonable costs resulting from the suspension order shall be allowed in arriving at any terminations settlement.

(3) Costs incurred by the administering agency after a suspension order is delivered that are not authorized by this section or specifically authorized in writing by the State Conservationist, SCS, shall not be allowable costs.

§ 634.17 Termination of grant agreement.

(a) *Termination agreement or notice.* (1) The State Conservationist, SCS, may, based on evidence of failure to comply with the terms of the grant agreement, issue a notice of intent to terminate the grant agreement. The notice of intent to terminate has the force and effect of extending or modifying the conditions of the suspend order. Any modification of the conditions of the suspend order shall be shown in the notice and discussed with the administering agency. The State Conservationist shall give not less than ten (10) days written notice to the administering agency (certified mail, return receipt requested) of intent to terminate the grant in whole or in part.

(2) After the administering agency has been afforded an opportunity for consultation, the State Conservationist, SCS, may request authorization from the Administrator, SCS, to terminate the grant in whole or in part. If the Administrator, SCS, concurs in the termination action, the proposed termination notice will be forwarded to the Administrator, EPA, for concurrence.

(3) After the Administrators, SCS and EPA, have been informed of any expressed views of the administering agency and concurred in the proposed termination, the State Conservationist, SCS, may, in writing (certified mail, return receipt requested), terminate the grant in whole or in part.

(4) Termination of all or part of the grant agreement may be carried out by either execution of a termination agreement by the State Conservationist, SCS, or issuance of a grant termination notice by the State Conservationist, SCS. The agreement or notice shall establish the effective date of termination of the grant, the basis for settlement of grant termination costs, and the amount and date of payment of any sums due either party.

(b) *Basis for termination.* A grant may be terminated by SCS for good cause subject to negotiation and payment of appropriate termination settlement costs. Cause for termination by SCS includes:

(1) Failure by the administering agency to make satisfactory progress toward achieving an adequate level of participation; or other evidence satisfactory to the NRCWCC, Adminstrator, EPA, and the Administrator, SCS, that the administering agency has failed or is unable to perform in accordance with the provisions of the grant agreement; or

(2) Failure through no fault of the administering agency to achieve an adequate level of participation; or other evidence satisfactory to the NRCWCC, Administrator, EPA, and the Administrator, SCS, that the planned actions approved in the project application cannot be achieved.

(c) *Effect of grant termination.* (1)(i) In those cases where cause for grant

termination is based on the administering agency's failure or inability to perform (634.17(b)(1)), upon termination, the administering agency must refund or credit to the United States that portion of the grant funds paid or owed to the administering agency and allocable to the terminated project work. Funds needed to meet unavoidable commitments may be retained. All other funds, including unexpened cost-sharing monies for existing RCWP contracts executed prior to the termination date, shall be refunded to the United States. The administering agency shall not make any new commitments or enter into any new RCWP contracts. The administering agency shall reduce the amount of other outstanding commitments insofar as possible and report to the State Conservationist, SCS, the uncommitted balance of funds awarded under the grant. The allowability of termination costs will be determined in conformance with applicable Federal cost principles.

(ii) Upon termination of a grant agreement, existing RCWP contracts and their related obligations will immediately, and in no case later than 5 calendar days be transferred to the ASCS county office to assure continuity in payments to participants. The State Conservationist, SCS, will immediately initiate action under § 634.15 to establish a new administering agency for completion of the project.

(2) In those cases where cause for grant termination is based on failure to achieve the planned actions through no fault of the administering agency, the termination agreement and amended grant agreement are to permit the administering agency to fulfill the obligations of its existing RCWP contracts. The administering agency shall not make any new commitments or enter into any new RCWP contracts without SCS approval.

§ 634.18 Termination of project.

(a) An RCWP project is terminated by the State Conservationist because an adequate level of participation cannot be achieved. Upon this determination, the State Conservationist shall publish in a newspaper of public record in the project area a notice of intent to terminate all or part of the grant agreement and the project (§ 634.7(c)), and an announcement of the time and place of a public hearing.

(b) No sooner than 15 days from the publication of the notice of intent to terminate all or part of the project and grant agreement, the State Conservationist will conduct a public hearing in the project area.

(c) If, based on the hearing record, the performance record of the administering agency, and the recommendations of the SRCWCC, the State Conservationist determines that the project will be terminated pursuant to § 634.17(c), the State Conservationist will enter into a grant termination agreement or issue a grant termination notice.

(d) The existing RCWP contracts will be transferred to the ASCS county office pursuant to § 634.17(c)(1)(ii).

(e) The State Conservationist will prepare a project close-out report summarizing the actions accomplished.

§ 634.19 Project completion and closeout.

(a) The maximum total life of a project shall be fifteen (15) years or less.

(b) The allowable contracting period may be increased if an adequate level of participation has been achieved and the designated management agency assures a significant increase in participation can be reached in a reasonable time.

(c) The grant or fund transfer agreement with an administering agency shall expire when the administering agency has fulfilled all of its obligations in the long-term RCWP contracts.

(d) When a project is completed, the administering agency is to provide the State Conservationist, SCS, a closeout report which summarizes the actions accomplished.

Subpart C—Participant RCWP Contracts

§ 634.20 Eligible land.

RCWP is only applicable to privately owned land. Land owned by corporations whose ownership is public (i.e., their stock is publicly traded over the market) is eligible for program assistance only if the corporation can document that the installation of BMP's places an inappropriate financial burden on the corporation.

§ 634.21 Eligible participants.

(a) Any landowner or operator whose land or activities in a project area is contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality plan is eligible to enter into an RCWP contract.

(b) This program will be conducted in compliance with all nondiscrimination requirements as contained in the Civil Rights Act of 1964 and amendments thereto and the Regulations of the Secretary of Agriculture (7 CFR 15.1–15.12).

§ 634.22 Application for assistance.

(a) Landowners or operators must apply for RCWP assistance through the office of the administering agency or its designee(s) by completing the prescribed application form.

(b) The priority for assistance among landowners and operators in developing water quality plans is to be determined jointly, through an agreed-to process, by the county ASC committee and the soil conservation district, with technical assistance from SCS.

(c) Applications that are ineligible or technically infeasible are to be returned to the applicant with a letter stating the reasons for disapproval. Applications that are of a low priority will be retained and the applicant will be sent a notice that the application is being held for a period to be determined locally for future consideration.

§ 634.23 Water quality plan.

(a) The participant's water quality plan, developed with technical assistance by the SCS or its designee, is to include appropriate BMP's identified in the approved agricultural portion of the 208 water quality management plan. Such BMP's must reduce the amount of pollutants that enter a stream or lake by:

(1) Methods, such as reducing the application rates or changing the application methods of potential pollutants, and

(2) Methods, such as practices or combinations of practices which prevent potential pollutants from leaving source areas or reduce the amount of potential pollutants that reach a stream or lake after leaving a source area.

(b) Participant's water quality plans shall as a minimum include BMP's for all critical areas or sources. The plans will include BMP's which are required but not cost-shared. Non-cost-shared BMP's, essential for the performance and maintenance of cost-shared BMP's shall be required as a condition of the RCWP contract.

(c) The participant is responsible for compliance with all other applicable Federal, State, and local laws that deal with the participant's nonpoint source water quality problems, such as the treatment, storage, and disposal of hazardous waste. BMP's required for compliance may be cost shared.

(d) It is recognized that the participants' water-quality plans upon which the RCWP contracts are to be based may include conservation measures other than those related to water quality improvement. These measures are not eligible for cost sharing under this program. The installation of such conservation measures will not be required as a condition of the RCWP contract and will not be shown in the time schedules for implementing BMP's.

(e) Time schedules for implementing BMP's are to be provided in the par-

ticipant's water quality plan. The time schedule is to establish the length of the contract within the 5 to 10 year period established by law.

(f) The Soil Conservation Service will certify as to the technical adequacy of the water-quality plan.

(g) The soil conservation districts are to review and approve all water-quality plans and modifications.

§ 634.24 Cost sharing.

(a) The portion of BMP cost (including labor) to be cost shared shall be that part which the Secretary determines is necessary and appropriate. The value of land upon which BMP's are applied, or the participant's water rights, cannot be considered a part of the participant's share of the cost.

(b) The administering agency, in consultation with the county ASC committee(s), soil conservation district(s), and designated management agency will annually set maximum individual BMP cost-share levels for the project area. However, the Federal share of the cost of the contract cannot exceed 50 percent unless a variance has been granted.

(c) Recommended variances exceeding the 50 percent level must be in the public interest and based on the following criteria:

(1) The main benefits to be derived from measures are related to improving offsite water quality, and

(2) The matching share requirements would place a burden on the landowner or operator which would probably prevent him or her from participating in the program.

(d) BMP's to be cost shared must have a positive effect on water quality by reducing the amount of agricultural nonpoint source pollutants that enter a stream or lake.

(e) Cost sharing is not to be made available for:

(1) Measures installed primarily for bringing additional land into crop production, including but not limited to land clearing and brush removal;

(2) Measures installed primarily for increasing production on existing cropland, including but not limited to bedding, field ditches, open drains, and tile drains;

(3) Measures having flood protection as the primary purpose, including but not limited to open channels, clearing and snagging, and obstruction removal;

(4) Structural measures authorized for installation under Pub. L. 83-566.

(f) The Federal cost-share level is not to be reduced by the contribution of a State or subdivision thereof. Total payments from Federal, State, and local sources for a BMP may not exceed the total cost of that BMP.

§ 634.25 Contracting.

(a) To participate in RCWP, a landowner or operator must enter into a contract in which he or she agrees to apply his or her water-quality plan. Any person who controls, or shares control, of the farm, ranch, or other land for the proposed contract period (5 to 10 years) must sign the contract.

(b) Cost-sharing payments cannot be provided for any measure that is initiated before the contract is approved by the administering agency.

(c) The participant must furnish satisfactory evidence of his or her control of the farm, ranch, or other land. The administering agency is to determine the acceptability of the evidence and maintain current ownership evidence in the contract file.

(d) RCWP contracts shall include the basic contract document, special provisions as needed, the participant's water-quality plan, schedule of operations, and any other data necessary.

(e) SCS or its designee shall approve the technical adequacy of the RCWP contract and obtain the required signature of the participants. The SCS or its designee will provide the contract to the administering agency for certification of fund availability and for execution.

(f) Participants shall install best management practices according to the specifications that are applicable at the time measures are installed.

(g) SCS will provide technical assistance to participants for installing BMPs. The State Conservationist, SCS, or its designee may enter into contracts with qualified soil conservation districts or others to provide technical assistance.

(h) The RCWP contract is to require BMPs to be operated and maintained by the participant at no cost to that administering agency.

(i) The contract period is to be not less than 5 and not more than 10 years. A contract is to extend for at least 1 year after the application of the last cost-shared BMPs. All contract items are to be accomplished prior to contract expiration.

(j) A land owner or operator may enter into a contract jointly (pooling ageement) with other land owners or operators to solve mutual water quality problems. Each participant must enter into an RCWP contract to treat water quality problems not covered by the joint arrangement.

(k) Participants may use all available sources of assistance to accomplish their water-quality objectives. They are responsible for:

(1) Accomplishing the water-quality plan;

(2) Keeping the administering agency informed of their current mailing address;

(3) Obtaining, having in hand, and maintaining any required permits and landrights necessary to perform the planned work;

(4) Applying or arranging for the application of BMPs, as scheduled in the plan, according to approved standards and specifications;

(5) The operation and maintenance of BMPs installed during the contract period; and

(6) Obtaining the authorities, rights, easements, or other approvals necessary to maintain BMPs in keeping with applicable laws and regulations.

(l) Unless otherwise approved by the Administrator, SCS, and Administrator, EPA, the administering agency shall not enter into any new RCWP contracts after five (5) years of elapsed time from the date when RCWP funds are first made available to begin the project.

(m) Contracts may be terminated due to hardship by mutual agreement if the administering agency and the State Conservationist, SCS, determine that such action would be in the public interest.

§ 634.26 Contract modifications.

(a) The administering agency may modify contracts previously entered into if it is determined to be desirable to carry out the purposes of the program, facilitate the practical administration thereof, or to accomplish equitable treatment with respect to other conservation, land-use, or water-quality programs.

(b) Requirements of active contracts may be waive or modified by the administering agency only if such waiver or modification is specifically provided for in these regulations. SCS concurrence in modifications is necessary when modifications involve a technical aspect of the participant's water-quality plan. A contract may be modified only if it is determined that such modifications are desirable to carry out purposes of the program or to facilitate the program's practical administration.

(c) Contracts may be modified to add, delete, substitute, or reinstall best management practices when:

(1) The installed measure failed to achieve the desired results through no fault of the participant,

(2) The installed measure deteriorated because of conditions beyond the control of the participant, or

(3) Another BMP is substituted that will achieve the desired results.

(d) Contract modifications are not required when items of work are accomplished prior to scheduled completion or within 1 year following the year of scheduled completion.

(e) If, during the contract period, all or part of the right and interest in the land is transferred by sale or other

transfer action, the contract is terminated on the land unit that was transferred and the participant having control over such land:

(1) Forfeits all right to any future cost-share payments on the transferred land unit, and

(2) Must refund with interest all cost-share payments that have been made on the transferred land unit unless the new land owner or operator becomes a party to the contract, except that where it is determined by the administering agency, with the approval of the State conservationist, SCS, that the established BMPs will provide water quality benefits for the design life of the BMP, the payment may be retained.

(f) If the new land owner or operator becomes a party to the contract:

(1) Payment which has been earned, but not made to the participant who applied the BMPs and had control prior to the transfer, can be made,

(2) Such land owner or operator is to assume all obligations of the previous participant on the transferred land unit,

(3) The contract with the new participant is to remain in effect with the original terms and conditions, and

(4) The contract is to be modified in writing to show the changes caused by the transfer. If the modification is not acceptable to the administering agency, the provisions of (e)(1) and (2) of this section apply.

(g) The transfer of all or part of a land unit by a participant does not affect the rights and obligations of other participants who have signed the contract.

§ 634.27 Cost-share payment.

(a) *General.* Participants are to obtain or contract for materials or services as needed to install BMPs. Federal Cost-share payments are to be made by the administering agency upon certification by the District Conservationist, SCS, or its designee, that the BMPs, or an identifiable unit thereof, have been properly carried out and meet the appropriate standards and specifications.

(b) *Payment maximum.* The maximum total Federal cost-share payment to a participant shall be limited to $50,000. Exceptions to this limit may be made by the administering agency with concurrence of the Administrator, SCS, upon recommedation of the NRCWCC, where it determines that the main benefits to be derived are essential for meeting the water quality objectives in the project area.

(c) *Basis for cost-share payment.* (1) Cost-share payments are to be made by the administering agency at the cost-share percentage and by one of the following methods designated by the administering agency and set out in the contract:

(i) Average cost, or

(ii) Actual cost not to exceed average cost.

(2) If the average cost at the time of starting the installation of a BMP or identifiable unit is less than the costs specified in the contract, payment is to be at the lower rate. If the costs at the start of installation are higer, payment may be made at the higher rate. A modification will be necessary if the higher cost results in a significant increase in the total cost-share obligation. Cost-share payment is not to be made until the modification reflecting the increase is approved.

(d) *Average cost development.* Average costs are to be developed by the administering agency for each project using cost data from the local area. These costs should be reviewed by the SRCWCC for consistency with average costs in other USDA programs. The average cost list is to be updated annually by the administering agency.

(e) *Application for payment.* Cost-share payments can be made by the administering agency after a participant has carried out a BMP or an identifiable unit of a BMP. Application for payment must be submitted to the administering agency, be certified by the SCS or its designee, and be supported by such cost receipts as are required by the administering agency. It is the participant's responsibility to apply for payments.

(f) *Authorizations for payments to suppliers.*

(1) The contract may authorize that part or all of the Federal cost share for a BMP or an identifiable unit be made directly to suppliers of materials or services. The materials or services must be delivered or performed before payment is made.

(2) Federal cost shares will not be in excess of the cost share attributable to the material or service used or not in excess of the cost share for all identifiable units as may be requested by the participant.

(g) *Material inspection and analysis.* When authorizations for payments to suppliers are specified, the administering agency, its representatives, or the Government reserve the right to inspect, sample, and analyze materials or services prior to their use.

(h) *Assignments, set-offs, and claims.* (1) A state or local administering agency may allow the assignment of payments to the extent provided by State law. When ASCS is designated as the administering agency, assignments by any participant who may be entitled to cost-share payment under the program are prohibited unless they are made in accordance with the provisions of section 203, Title 31, U.S.C., as amended, and section 15, Title 41, U.S.C., as amended.

(2) If any participant to whom compensation is payable under RCWP is indebted to the United States and such indebtedness is listed on the county register of indebtedness maintained by the County ASC committee, the compensation due the participant must be used (set-off) to reduce that idebtedness. Indebtedness to USDA is to be given first consideration. Deductions for setoffs involving a nonresident alien shall be made as provided by 26 U.S.C. §71. Setoffs made pursuant to this section are not to deprive the participant of any right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

(3) Any cost-share payment due any participant shall be allowed without deduction of claims for advances except as provided for above and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the participant or any other creditor.

(i) *Access to land unit and records.* Any authorized administering agency, or SCS employees or agents, shall have the right of access at reasonable times to land under application or contract, and the right to examine any program records to ascertain the accuracy of any representations made in the application or contract. This is limited to the right to furnish technical assistance and to inspect work performed under the contract.

(j) *Suspension of payments.* No cost-share payments will be made pending a decision on whether or not a contract violation has occurred.

(k) *Ineligible payments.* The filing of requests for payment for BMP's not carried out, or for BMP's carried out in such a manner that they do not meet contract specifications, constitutes a violation of the contract.

§ 634.28 Appeals not related to contract violations.

(a) The participant may, prior to execution of the contract, request that the administering agency review or reconsider criteria being used in developing his or her contract. Such review or reconsideration may include the eligibility of BMP's which had not been approved for application in the project area, cost-sharing levels for BMP's, priorities for developing water quality plans, and standards and specifications.

(1) If verbal agreement is not reached, the participant may make a written request within 30 days after receiving notice of the decision of his or her verbal request.

(2) The administering agency shall have 30 days in which to make a deci-

sion and notify the participant in writing.

(3) The decision of the administering agency shall be final.

(b) If, after the contract has been executed, the participant and the administering agency are unable to reach written agreement relative on matters which are not related to contract violations, the participant may request and receive a review by the appeals board. The administering agency will:

(1) Notify the participant, in writing, of the date the appeals board will consider the appeal.

(2) Within 30 days after receiving the administering agency's notice, the participant may file a request to appear and present oral and other evidence. If the participant does not request an appearance, the administering agency appeals board will decide the dispute on the evidence available to them, including statements or briefs of the authorized representatives of the soil conservation district and SCS. The administering agency shall notify the participants of the appeals board's decision in writing. There shall be no further administrative appeal of this decision.

(c) *Filing of documents.* A document is considered filed when it is received in the office of the person or agency concerned.

§ 634.29 Violations.

(a) *Actions causing violations.* The following actions constitute violation of a contract by a participant:

(1) Knowingly or negligently damaging or causing BMP's to become impaired.

(2) Adopting a land use or practice during the contract period which tends to defeat the purposes of the program.

(3) Failing to comply with the terms of the contract.

(4) Filing a false claim.

(5) Misusing authorizations for payment.

(b) *Contract termination as a result of violations.* (1) By signing a contract, the participant agrees to forfeit all rights to further cost-sharing payments under a contract and to refund all cost-share payments received, with interest, if the administering agency, with the concurrence of the State Conservationist, SCS, determines that:

(i) There was a violation of the contract during the time the participant had control of the land; and

(ii) The violation was of such a nature as to warrant termination of the contract.

(2) The participant shall be obligated to refund all cost-share payments and all cost shares paid under authorizations, with interest, at the rates established by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97.

(c) *Payment adjustments and refunds resulting from violations.* (1) By signing a contract, the participant agrees to refund cost-share payments received under the contract or to accept payment adjustments if the administering agency determines and the State Conservationist, SCS, concurs that:

(i) There was a violation of the contract during the time the participant had control of the land; and

(ii) The nature of the violation does not warrant termination of the contract.

(2) Payment adjustments may include decreasing the rate of cost share, or deleting from the contract a cost-share commitment, or withholding cost-share payments earned but not paid. The participant who signs the contract may be obligated to refund cost-share payments.

§ 634.30 Appeals in USDA-administered projects.

Appeals in USDA administered RCWP projects. The participant in a USDA-administered RCWP project may appeal decisions of the administering agency under the ASCS appeals procedures set out in 7 CFR Part 780.

§ 634.31 Appeals of contract violations.

(a) *Scope.* This section prescribes the regulations dealing with contract violations. The Administrator, SCS, reserves the right to revise or supplement any of the provisions of this section at any time if the action does not adversely affect the participant, or if the participant has been officially notified before this action is taken.

(b) *Determination by administering agency.* Upon notification that a contract violation may have occurred, the administering agency:

(1) Determines that a violation did not occur or that the violation was of such a nature that no further action is to be taken; or

(2) Determines that a violation did occur and the participant agrees to accept a written penalty of forfeiture, refund, payment adjustment, or termination. If no agreement is reached, further action is to be taken.

(c) *Notice of possible violation.* (1) When the administering agency is notified that a contract violation may have occurred and the matter is not resolved under § 634.31(b)(1) it shall notify, in writing, each participant who signed the contract of the alleged violation. This notice setting forth the alleged violation may be personally delivered or sent by certified or registered mail. A participant is considered to have received the notice at the time of personal receipt acknowledged in writing, at the time of delivery of a certified or registered letter, or at the time of the return of a refused certified or registered letter.

(2) The notice shall give the participant an opportunity to appear at a hearing before an appeals board. The participant's request for a hearing shall be submitted in writing, and must be received by the appeals board within 30 days after receipt of the notice. The participant shall be notified in writing by the appeals board of the time, date, and place for the hearing. The participant shall have no right to a hearing if he does not file a written request for a hearing, or if he or his representative does not appear at the appointed time, unless the appeals board, at its discretion, permits an appearance. A request for a hearing filed by a participant shall be considered to be a request by all participants who signed the contract.

(d) *Hearing.* The appeals board shall conduct an open hearing to obtain the facts about the alleged violation. The appeals board shall limit the hearing to relevant facts and evidence, and shall not be bound by the strict rules of evidence. Witnesses may be sworn in at the discretion of the appeals board.

(1) The participant or his or her representative shall be given full opportunity to present oral or documentary evidence about the alleged violation. Likewise, the administering agency may submit statements and evidence. Individuals not otherwise represented at the hearing may, at the discretion of the appeals board, be permitted to give information or evidence. The appeals board, at its discretion, may permit witnesses to be cross-examined.

(2) The appeals board shall make a record of the hearing. A summary of the testimony may be made if both the participant and the appeals board agree. A transcript of the hearing shall be made if requested by either the appeals board or the participant within 10 days prior to the hearing. If a transcript is requested by the participant, the participant may be assessed the cost of a copy of the transcript.

(3) The appeals board shall, after a reasonable period of time, close the hearing if the participant or his or her representative is not present at the scheduled time. The appeals board may, at its discretion, accept information and evidence submitted by others present for the hearing.

(4) The appeals board shall furnish the administering agency and the State Conservationist, SCS, with a written report setting forth their findings, conclusions, and recommendations. The report shall include the summary of testimony or transcript made of the hearing and any other in-

formation which would aid the administering agency in reaching a decision.

(e) *Decision by the administering agency.* The administering agency shall make a decision within 30 days on the basis of the appeals board report, recommendations of soil conservation district board, if any, and any other information available, including if applicable, the amount of the forfeiture, refund, or payment adjustment. The decision shall state whether the violation is of such a nature as to warrant termination of the contract. The administering agency shall notify, in writing, each participant who signed the contract of its decision. The administering agency may authorize or require the reopening of any hearing before the appeals board for any reason at any time before their decision. The administering agency's decision shall be final.

(1) If the decision provides for termination of the contract, it shall state that the contract is terminated and that all rights to further cost-share payments under the contract are forfeited and that all cost-share payments received under the contract shall be refunded with interest. The decision is to state the amount of refund and method of payment.

(2) If the decision does not provide for termination of the contract, the participant may be required to make a refund of cost-share payments or to accept payment adjustments. The decision shall state the amount and justification for refunds of cost-share payments or payment adjustments.

Subpart D—Financial Mangement

§ 634.40 Financial Management

(a)(1) Finance and accounting will be in conformance with Office of Management & Budget Circular A-102, (Rev.); U.S. Department of Health, Education & Welfare Brochure OASC-10, Federal Management Circular FMC 74-4, "Cost Principles Applicable to Grants and Contracts with State and Local Government"; Department of the Treasury, Department Circular No. 1075 (4th Rev.), "Withdrawal of Cash from the Treasury for Advances under Federal Grant and other Programs"; Office of Management & Budget Circular No. A-34, "Instruction on Budget Execution"; U.S. Treasury Requirements Manual for Guidance of Departments and Agencies; and General Accounting Office Policy & Procedures Manual for Guidance of Federal Agencies.

(2) Administering agency RCWP grants will be funded under Letter-of-Credit serviced by the U.S. Treasury Regional Disbursing Office (RCO), subject to the terms and conditions of the grant agreement or by SCS approved advance/reimbursement financing agreements.

(3) The State of local administering agency shall maintain a financial management system which provides accurate and complete disclosure of the financial status of the RCWP grant in accordance with prescribed reporting requirements.

(4) The State or local administering agency shall upon request make its financial management system records available to SCS, USDA Office of Inspector General, and the General Accounting Office.

(5) Participation in comprehensive USDA/EPA joint water quality monitoring, evaluating, and analysis will be funded according to the plan approved in § 634.50(a)(3).

(b)(1) The carrying out of RCWP will require both financial and performance reporting to the Soil Conservation Service by participating USDA and State or local agencies.

(2) USDA participating agencies shall furnish SCS with reports prescribed by the U.S. Treasury Department; Office of Management & Budget; Administrative Regulations of the U.S. Department of Agriculture; and other reports required by law, regultion, or agreement.

(3) State or local administering agencies shall furnish financial status reports to SCS on a quarterly basis as required by the grant agreement. The administering agency is also to provide and audit report upon request. The audit report is to be prepared in sufficient detail to allow SCS to determine that funds have been used in compliance with applicable laws, regulations, and the grant agreement.

§ 634.41 [Reserved]

Subpart E—Monitoring and Evaluation

§ 634.50 Program and project monitoring and evaluation.

(a) *Comprehensive USDA/EPA joint water quality monitoring, evaluation, and analysis.*

(1) Representative RCWP project areas will be selected to evaluate the improvement in water quality in the project area and to make projections on a nationwide basis. Water-quality monitoring, evaluation, and analysis will be conducted to evaluate the overall cost and effectiveness of projects and BMPs to provide information on the impact of the program on improved water quality and for general RCWP program management.

(2) Monitoring, evaluation, and analysis is a joint USDA/EPA responsibility. Subject to appropriation of funds, the Administrator, SCS, and EPA are jointly to select the project areas to be monitored and evaluated based on a list of project areas recommended by the NRCWCC.

(3) The Administrator, SCS, and Administrator, EPA, are jointly to determine the criteria to be used for comprehensive water-quality monitoring, evaluation, and analysis in the selected project areas. A monitoring and evaluation plan is to be developed and agreed to by SCS and EPA prior to initiating a project selected for monitoring and evaluation. The State water-quality agency and other Federal, State, and local agencies will be involved in the development of the plan for water-quality evaluation. The involvement of concerned agencies in implementing the plan will be determined at the time the plan is prepared.

(4) The project areas selected for detailed analysis are to be representative of agricultural and silvicultural nonpoint source pollution problems, categories of agriculture and silvicutural nonpoint source pollutants, agricultural enterprises, and BMPs used in the RCWP.

(5) Preference in the selection of project areas for comprehensive evaluation is to be given to those project areas for which long-term baseline information exists on land use, hydrologic data, and water quality.

(6) Monitoring and evaluation of selected project areas is to begin sufficiently in advance of the installation of BMPs to document, in a statistically satisfactory manner, existing land-use practices and baseline water-quality problems.

(7) The water quality monitoring and evaluation plan will provide sufficient basic information to adequately describe the land use, hydrologic water quality relationship. As a minimum, the plan will contain the following components:

(i) Chemical and physical water quality monitoring,

(ii) Bilogical monitoring,

(iii) Appropriate hydrologic data,

(iv) Soils properties and characteristics, topographic information,

(v) Land use and farm inventory.

(b) *Program and project evaluation.* (1) There will be a continuing evaluation of the Rural Clean Water Program to measure its effectiveness and for each project for which cost-sharing funds are provided.

(2) Program and project evaluations will be conducted under the direction of the Assistant Secretary for Conservation, Research and Education, USDA, the Director of Economics, Policy Analysis, and Budget, USDA; and the Assistant Administrator for Water and Waste Management, EPA; or their representatives working through NRCWCC.

(3) Evaluative reports for the program and each project area will be submitted annually to the Secretary

of Agriculture and the Administrator, EPA.

(c) *Funding.* (1) Research oriented activities will be from sources other than RCWP.

(2) Funding for program and project monitoring and evaluation will be provided through RCWP and other authorizations.

§ 634.51 [Reserved]

[FR Doc. 78-30685 Filed 10-31-78; 8:45 am]

[3410-02-M]

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

[Orange and Grapefruit Regulation 30]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN TEXAS

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation specifies grade and size requirements for oranges and grapefruit grown in Texas for the period November 6-December 11, 1978. This regulation is needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing agreement, as amended, and order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grands Valley in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Texas Valley Citrus Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of oranges and grapefruit, as hereafter provided, will tend to effectuate the declared policy of the act.

The following regulation reflects the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions. The grade and size requirements are necessary to prevent the shipment of Texas oranges and grapefruit of lower grades and sizes than specified, and are designed to provide ample supplies of acceptable quality oranges and grapefruit in the interest of producers and consumers pursuant to the declared policy of the act. These requirements would be the same as those currently in effect through November 5, 1978, under § 906.360 Orange and Grapefruit Regulation 29 (42 FR 57299; 43 FR 4033).

The 1978-79 season Texas orange crop is estimated at 6,300,000 boxes (85 pounds net weight), compared with 6,100,000 produced in 1977-78, and 6,900,000 in 1976-77. The crop is of excellent quality, and fruit sizes are comparable to those of the past 2 seasons. The 1978-79 season Texas grapefruit crop is estimated at 11,000,000 boxes (80 pounds net weight), compared with 11,900,000 produced in 1977-78, and 12,400,000 in 1976-77. The crop is of excellent quality, and fruit sizes are much larger than those of the past 2 seasons. Growing conditions have been favorable and soil moisture is adequate. Hence, considering the available supply and the reported quality and size of the fruit ample quantities of both oranges and grapefruit meeting these grade and size requirements will be available to meet the demand for these fruits.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulations at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the requirements for the handling of Texas oranges and grapefruit should be and are established as follows:

§ 906.361 Orange and Grapefruit Regulation 30.

(a) During the period November 6, 1978, through December 11, 1978, no handler shall handle any variety of oranges or grapefruit grown in the production area unless:

(1) Such oranges grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1), or U.S. No. 2;

(2) Such oranges are at least pack size 288, as such size is specified in § 51.691(c) of the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 288 oranges in any lot shall be 2$^{9}/_{16}$ inches;

(3) Such grapefruit grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, or U.S. No. 2;

(4) Such grapefruit are at least pack size 96, as such size is specified in § 51.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3$^{9}/_{16}$ inches: *Provided,* That any handler may handle grapefruit smaller than pack size 96, provided such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, as such size is specified in the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3$^{5}/_{16}$ inches;

(5) An appropriate inspection certificate has been issued for such fruit within 48 hours prior to the time of shipment; and

(6) The fruit meets all the applicable container and pack requirements effective under this marketing agreement and order.

(b) Terms used in this section shall have the same meaning as in the marketing order, and terms relating to grade and diameter shall have the same meaning as in the United States Standards for Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 51.680-51.714), or in the United States Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 51.620-51.653).

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

Dated: October 27, 1978.

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

[FR Doc. 78-30902 Filed 10-31-78; 8:45 am]

[3410-02-M]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Expenses of the Raisin Administrative Committee, and Rate of Assessment, for the 1978-79 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses, and a rate of assessment, for the 1978-79 crop year, to be collected from handlers to support activities of the committee which locally administers the Federal marketing order covering raisins produced from grapes grown in California.

DATES: Effective August 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to Marketing Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

§ 989.329 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the committee during the 1978-79 crop year will amount to $244,000.

(b) The rate of assessment for said period payable by each handler in accordance with § 989.80 is fixed at $3.50 per ton for: (1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins under paragraph (b)(3) of this section; (2) reserve tonnage raisins released or sold to the handler for use as free tonnage during that crop year; and (3) standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular year shall apply to all assessable raisins handled from the beginning of such year which began August 1, 1978. To enable the committee to meet crop year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

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

Dated: October 27, 1978.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc. 78-30903 Filed 10-31-78; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

Pursuant to the authority of 5 U.S.C. 553(b)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that economic and financial considerations require that these amendments must be adopted immediately and that delay would be contrary to the public interest.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3257.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of	Rate	Effective
Boston	8½	Oct. 16, 1978.
New York	8½	Do.
Philadelphia	8½	Oct. 20, 1978.
Cleveland	8½	Oct. 16, 1978.
Richmond	8½	Do.
Atlanta	8½	Do.
Chicago	8½	Do.
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Do.
Dallas	8½	Do.
San Francisco	8½	Do.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of	Rate	Effective
Boston	9	Oct. 16, 1978.
New York	9	Do.
Philadelphia	9	Oct. 20, 1978.
Cleveland	9	Oct. 16, 1978.
Richmond	9	Do.
Atlanta	9	Do.
Chicago	9	Do.
St. Louis	9	Do.
Minneapolis	9	Do.
Kansas City	9	Do.
Dallas	9	Do.
San Francisco	9	Do.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

Federal Reserve Bank of	Rate	Effective
Boston	9½	Oct. 16, 1978.
New York	9½	Do.
Philadelphia	9½	Oct. 20, 1978.
Cleveland	9½	Oct. 16, 1978.
Richmond	9½	Do.
Atlanta	9½	Do.
Chicago	9½	Do.
St. Louis	9½	Do.
Minneapolis	9½	Do.
Kansas City	9½	Do.
Dallas	9½	Do.
San Francisco	9½	Do.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of	Rate	Effective
Boston	11½	Oct. 16, 1978.
New York	11½	Do.
Philadelphia	11½	Oct. 20, 1978.
Cleveland	11½	Oct. 16, 1978.
Richmond	11½	Do.
Atlanta	11½	Do.
Chicago	11½	Do.
St. Louis	11½	Do.
Minneapolis	11½	Do.
Kansas City	11½	Do.
Dallas	11½	Do.
San Francisco	11½	Do.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, October 23, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-30750 Filed 10-31-78; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. SAB-24]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

STAFF ACCOUNTING BULLETIN No. 24

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This interpretation describes a factual situation which, in the view of the staff, rebuts the presumption that a company whose former common shareholders either retain or receive the larger portion of the voting rights in a combined corporation should be treated as the acquirer in a purchase transaction.

DATE: October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Steven J. Golub, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C 20549, 202-472-3782.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 24, 1978.

STAFF ACCOUNTING BULLETIN No. 24

The following interpretation describes a factual situation which, in the view of the staff, rebuts the presumption that a company whose former common shareholders either retain or receive the larger portion of the voting rights in a combined corporation should be treated as the acquirer in a purchase transaction.

The staff hereby adds topic 2.A.2. regarding the determination of the acquiring corporation in a purchase transaction.

Topic 2: Business combinations.

* * * * *

A. Purchase method.

* * * * *

2. Determination of the acquiring corporation.

Facts:

Companies X and Y reach an agreement in principle to merge under which the former common shareholders of company X are to receive common stock representing 55 percent of the outstanding voting stock in the combined corporation and the former common shareholders of company Y are to receive both common and preferred stock representing 45 percent of the outstanding voting stock in the combined corporation. The chairman of the board and chief executive officer and the chief operating officer of the combined corporation would be the individuals currently holding these positions in company Y. Substantially all the proposed directors of the combined corporation are directors of company Y. (The board of directors of company Y consists principally of nonmanagement directors whereas the board of directors of company X consists principally of management directors.) The chairman of the executive committee of the combined corporation would be the current chairman of the board and chief executive officer of company X. That individual and his family would hold approximately 18 percent of the outstanding voting stock of the combined corporation; 8½ percent would be held in a trust, and, with respect to the other 9½ percent of the shares, he has agreed "not to solicit proxies or to participate in an election contest." (No other shareholder of the combined corporation would hold 5 percent or more of the outstanding common stock.) The assets, revenues, net earnings and current market value of company Y significantly exceed those of company X. In addition, the market value of the securities to be received by the former common shareholders of company Y significantly exceeds the market value of the securities to be received by the former common shareholders of company X. Companies X and Y propose to account for this business combination as a purchase by company X of company Y because the former shareholders of company X will hold a controlling interest (55 percent) in the outstanding voting stock of the combined corporation.

Question:

Given the above facts, is there other evidence indicating that company Y is the acquirer in this business combination which rebuts the presumption that company X is the acquirer since its former common shareholders will receive the larger portion of the voting rights of the combined corporation.

Interpretive Response:

Paragraph 70 of Accounting Principles Board Opinion No. 16 states:

"The Board concludes that presumptive evidence of the acquiring corporation in combinations effected by an exchange of stock is obtained by identifying the former common stockholder interests of a combining company which either retain or receive the larger portion of the voting rights in the combined corporation. That corporation should be treated as the acquirer unless other evidence clearly indicates that another corporation is the acquirer."

Companies X and Y took the position that because the former common shareholders of company X will receive 55 percent of the outstanding voting stock of the combined corporation, it is the acquiring corporation and the other circumstances of the business combination do not rebut that evidence.

The staff took the position that company Y is the acquiring corporation because the other circumstances of this business combination rebut the normal presumption that company X is the acquirer (i.e., that company is the acquirer whose former common shareholders receive the larger portion of the voting stock of the combined corporation.) The facts that: (i) there would be restrictions on the ability of the former chairman of the board of company X to solicit proxies or to participate in an election contest; (ii) top management and the board of directors of the combined corporation would be substantially individuals currently holding such positions in company Y; (iii) the assets, revenues, net earnings and current market value of company Y significantly exceed those of company X; and (iv) the market value of the securities to be received by the former common shareholders of company Y significantly exceeds the market value of the securities to be received by the former common shareholders of company X, all taken together, provide sufficient other evidence to indicate that company Y is the acquirer and that these factors outweigh the fact that the former common shareholders of company X received the larger portion of the voting rights of the combined corporation.

[FR Doc. 78-30812 Filed 10-31-78; 8:45 am]

[8010-01-M]

[Release No. IC-10453]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Deposits of Securities in Securities Depositories

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a new rule that (1) designates the Federal Reserve/Treasury book-entry system as a permitted securities depository for investment company securities and (2) states the conditions under which registered management investment companies or qualified custodians may deposit investment company securities in a securities depository, which for the purpose of the rule is defined as a system for the central handling of securities where all securities of any particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery of the securities. The Commission believes that these conditions are necessary or appropriate for the protection of investment company shareholders. The purpose of this rule is to enable investment companies to participate, with minimum risks, in the potential benefits incident to the deposit of securities in securities depositories.

EFFECTIVE DATE: December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Stanley B. Judd, 202-755-0213 or Elizabeth T. Tsai, 202-755-0210, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today adopted a new rule 17f-4 (17 CFR 270.17f-4) under section 17(f) of the Investment Company Act of 1940 (the "Act") (15 U.S.C. 80a-1 et seq., as amended by Pub. L. No. 91-547, effective December 14, 1971). The rule designates the Federal Reserve/Treasury book-entry system for United States and Federal agency securities (book-entry system) as a permitted depository for securities owned by management investment companies that are registered with the Commission (investment companies). The rule also states the conditions under which investment companies or their custodians may deposit all or any part of the securities owned by the investment companies (investment company securities) in clearing agencies registered with the Commission (clearing agencies) that act as securities depositories or the book-entry system. The Commission believes these conditions to be necessary or appropriate for the protection of investment company shareholders in view of the nature of investment companies and the unique legislative provision for their regulation.

Background

A. Section 17(f) before the 1970 Amendments Act

At least as early as 1935, Congress recognized that investment companies are affected with a strong public interest and present special features which require attention beyond simply the disclosure philosophy of the Securities Act of 1933 (15 U.S.C. 77a et seq.). (H. Rept. 1382, 91st Cong., 2d Sess. 2 (1970). In 1940, Congress found that investment companies are affected with a national public interest in that, among other things, they are media for the investment in the national economy of a substantial part of the national savings and may have a vital effect upon the flow of savings into the capital markets (15 U.S.C. 80a-1).

As a part of its broad design to protect investors in investment companies, Congress required in section 17(f) of the Act (15 U.S.C. 80a-17(f)) every investment company to place and maintain investment company securities in the custody of:

(1) A bank having the qualifications prescribed in section 26(a)(1) (15 U.S.C. 80a-26(a)(1)) of the Act for the trustees of unit investment trusts (bank custodian);

(2) A company which is a member of a national securities exchange, subject to such rules and regulations as the Commission may from time to time prescribe for the protection of investors (member firm custodian); or

(3) The investment company which owns the securities, but only in accordance with such rules and regulations as the Commission may from time to time prescribe for the protection of investors.

Congress specifically provided also that, in making rules, regulations, and orders that deal with the custody of investment company securities and other investments pursuant to section 17(f), the Commission may, among other things: (1) make appropriate provision with respect to such matters as the earmarking, segregation, and hypothecation of these securities; and (2) provide for or require periodic or other inspections by independent public accountants, employees and agents of the Commission, and such other persons as the Commission may designate. Congress also provided that no member of a national securities exchange which traded in securities for its own account could act as custodian except in accordance with rules and regulations prescribed by the Commission for the protection of investors.

Pursuant to section 17(f) of the Act, the Commission has adopted rule 17f-1 (17 CFR 270.17f-1), which states the conditions under which investment companies may place or maintain investment company securities in the custody of members of national securities exchanges. The Commission also has adopted rule 17f-2 (17 CFR 270.17f-2), which states the conditions under which investment companies may maintain these securities in their own custody. Finally, appendix A to the guidelines for the preparation of the registration statement for an investment company is a sample custody agreement with a bank (model custodian agreement). Investment Company Act Release No. 7221 (June 29, 1972) (37 FR 12790). The Division of Investment Management believes that sections 3, 4, 5, 6, 8, and 12 of the model custodian agreement are essential to any custody agreement with a bank.

B. The 1970 Amendments Act

In 1970, Congress again demonstrated its concern for the safety of investment company assets by amending section 17(f) to require that an investment company which maintains its securities in the custody of banks keep in the custody of those banks (or in accordance with Commission rules) not only the cash proceeds from the sale of these securities but also other cash assets of the investment company.[1]

In addition, Congress amended section 17(f) of the Act to permit, subject to such rules, regulations, and orders as the Commission may adopt as necessary or appropriate for the protection of investors, investment companies or qualified custodians (with the consent of the investment companies for which they act as custodians) to deposit investment company securities in a system, established by a national securities exchange or national securities association registered with the Commission under the Securities Exchange Act of 1934 (Securities Exchange Act) (15 U.S.C. 78a et seq.) or such other person as may be permitted

[1] However, an investment company may maintain checking accounts in a bank or banks having the qualifications prescribed in sec. 26(a)(1) of the Act for trustees of unit investment trusts, provided the total balance of its accounts does not exceed the amount of the fidelity bond required by sec. 17(g) of the Act (15 U.S.C. 80a-17(g)) for officers or employees who can draw on them. For guidelines for opening and maintaining checking accounts, see Investment Company Act Release No. 6863 (Dec. 6, 1971) (37 FR 1474).

by the Commission, for the central handling of securities under which all securities of any particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery. (Pub. L. 91-547, § 9(a), 84 Stat. 1420, effective Dec. 14, 1971.)

C. *The Securities Acts Amendments of 1975*

In 1975, Congress added section 17A to the Securities Exchange Act (15 U.S.C. 78q-1) which provided for the establishment of a national system for the clearance and settlement of securities transactions having found, in paragraph (a) thereof (15 U.S.C. 78q-1(a)), that:

(A) The prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, are necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors.

(B) Inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.

(C) New data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement.

(D) The linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.

Congress, moreover, directed the Commission to use its authority under the Securities Exchange Act to end the physical movement of securities certificates in connection with the settlement among brokers and dealers of transactions in securities consummated by means of the mails or any means or instrumentalities of interstate commerce. (15 U.S.C. 78q-1(e)). However, the Commission does not believe addition of section 17A to the Securities Exchange Act of 1934 (15 U.S.C. 17q-1) in 1975 was intended by Congress to modify in any respect its rulemaking authority and responsibility in section 17(f) of the Investment Company Act.

D. *History of the proposed rule*

On February 7, 1977, the Commission published proposed rule 17f-4 under the authority granted to the Commission by sections 17(f) and 38(a) of the Act (15 U.S.C. 80a-17(f), 37(a)) Investment Company Act Release No. 9633 (Feb. 7, 1977) (42 FR 8666); comment period extended, Investment Company Act Release No. 9669 (March 9, 1977) (42 FR 14748). The proposed rule would have named the book-entry system as a permitted depository and stated the conditions under which an investment company or its custodian could deposit investment company securities in the book-entry system or in a clearing agency which acts as a securities depository. The Commission considered the public comments received and, in response, substantially revised the proposed rule.

On December 8, 1977, the Commission published revised proposed rule 17f-4. Investment Company Act Release No. 10053 (42 FR 63722). Interested persons responded with written comments, all of which the Commission has considered carefully.

II. Discussion of Rule 17f-4

In view of the comments received and the reasons indicated in this release, the Commission is adopting rule 17f-4 (the rule). The rule retains some of the provisions of the revised proposed rule, but eliminates others.

A. *Deposit in the book-entry system*

The rule in paragraph (b) designates the book-entry system as a permitted securities depository so that investment companies may continue to invest in marketable securities issued by the Treasury Department and certain Federal agencies. As of February 1978, over 90 percent of these securities were maintained in book-entry form and eventually all these securities may be available only in book-entry form.

B. *Conditions for deposit in depository systems*

The rule in paragraph (c) also states the conditions under which investment company securities may be deposited in the book-entry system or in clearing agencies which act as securities depositories.[2] Whether a deposit is made by an investment company, its custodian, or the latter's agent, the board of directors of the investment company must first approve the depository arrangement, and review it at least annually. The board of directors should carefully consider the terms of any such depository arrangement, the technical capability of the parties to discharge their responsibilities, the costs and risks involved, and other pertinent factors that relate to the safety or cost-effectiveness of the arrangement.

(1) *Deposit by an investment company.* When an investment company itself deposits securities in a clearing agency, subparagraph (c)(1) of the rule requires the investment company to have a system that is reasonably designed to prevent unauthorized officer's instructions. The system should provide, at least, for the form, content, and means of giving, recording, and reviewing these instructions. This condition is necessary for the protection of investment company shareholders because the movement of securities for a participant's account in a depository system is subject to the sole order of the participant through an officer's instruction which, typically, needs only one authorized signature that may be in reproduced form.

Subparagraph (c)(2) of the rule also requires the clearing agency to agree that, when it ceases to act as a depository for an investment company, it shall deliver the securities held by it for the investment company to a successor clearing agency, to a custodian, or, where the investment company has custody of its own securities under rule 17f-2, to a safekeeper of the securities to be named by the investment company. Where the investment company has not named one, the clearing agency shall deliver the investment company's securities to a bank custodian having the qualifications prescribed in section 26(a)(1) of the Act. The clearing agency's obligation to deliver is subject to its rules on contributions to its clearing or participants fund.

This condition is necessary to insure that, upon termination of an investment company's participation in a clearing agency, its securities will be placed with a qualified entity in accordance with section 17(f) and the rules thereunder.[3]

(2) *Deposit by a custodian or its agents.*

Under subparagraph (d)(1) of the rule, and subject to three conditions, a qualified custodian may deposit investment company securities in a securities depository of which it is a participant. Where it is not a participant, it may nevertheless deposit the investment company securities through agents which are banks or members of national securities exchanges qualified to act as investment company custodians.

First, subparagraph (d)(2) requires the custodian or its agents (the participant) to deposit the investment company securities in a nonproprietary account which includes only assets held for customers. This responds to the specific concern of Congress that the Commission, in adopting rules under section 17(f) of the Act dealing with the custodianship of investment company securities, make appropriate provision with respect to

[2] Securities Exchange Act Release No. 14531 (Mar. 6, 1978) (43 FR 10288) proposes that registration as a clearing agency should qualify clearing agencies for participation in or interface with other clearing agencies.

[3] Compare sec. 12 of the model custodian agreement.

such matters as the earmarking, segregation, and hypothecation of these securities. The purpose of this requirement is to separate, on the depository's records, securities held by the participant for its customers from those owned by the participant. The effect of subparagraph (d)(2) should thus be to prevent a participant's creditors from reaching the investment company securities as if they were assets of the participant, and similarly to separate on the records of any agent for the custodian securities held by the custodian for its customers from those owned by the custodian.[4] This condition is analogous to the requirement in section 4 of the model custodian agreement that investment company securities be physicially segregated from those of any other persons, and in rule 17f-1 as to the custody of these securities by a member firm. Such segregation of customers' securities in a nonproprietary account also is recognized as appropriate by the uniform operating circulars of the Federal Reserve banks on book-entry securities.[5]

The second condition to the deposit by custodian of investment company securities in subparagraph (d)(3) of the rule is that the custodian shall send the investment company a confirmation of any transfer to or from the account of the investment company with the custodian. Where securities are transferred to that account, the custodian shall also, by book-entry or other appropriate method, identify as belonging to the investment company a quantity of securities, which constitute all or are part of a fungible bulk of securities either registered in the name of the custodian (or its nominee), or shown on the custodian's account on the books of its nominee, agent, or depository. Confirmation by a custodian to an investment company would furnish objective evidence for the investment company of transactions effected on its behalf. The term "confirmation" for this purpose means that notice or advice which is prepared by custodians pursuant to applicable provisions of the Uniform Commercial Code to evidence transactions for the accounts of their customers; it is not intended to require preparation by a custodian of a confirmation required of broker-dealers under rule 10b-10 under the Securities Exchange Act (43 FR 47495 (to be codified in 17 CFR 240.10b-10)). This evidence would be important should questions arise as to the ownership of certain securities of the accuracy of records relating to depository services. Furthermore, confirmation may be necessary to effect transfers of securities which would not be reflected on the books of the depository system, such as transfers between customers of a custodian and (where a custodian is not a participant in the depository system but acts through an agent who is) transfers between the custodian and its customers and between customers of the custodian and customers of the agent.[6]

The third condition to the deposit by a custodian of investment company securities in subparagraph (d)(4) of the rule is that the custodian or, if it is depositing the investment company's securities through an agent, the agent depositing the securities shall promptly send the investment company a copy of reports it receives from the depository on the depository's system of internal accounting control. The custodian and any such agent also shall send the investment company such reports on their own systems of internal accounting control as the investment company may from time to time reasonably request. The purpose of these provisions is to provide the investment company and its auditors access to information that may be necessary for them to evaluate a depository arrangement or to verify the investment company's holdings.

C. *Conditions deleted*

(1) *Definitions.* The revised proposed rule had defined certain terms to explain or restrict their meaning. In view of its new format, rule 17f-4 adopts as modified a few of these definitions, e.g., "book-entry system" and "officer's instruction," and eliminates the rest.

(2) *Restriction on the number of intermediaries that a custodian may use.* Under the revised proposed rule, a custodian would have been able to deposit investment company securities only if it directly participated in a depository or participated indirectly through one intermediary. This limitation was designed to minimize problems that might arise from the deposit of these securities by a custodian through several layers of intermediaries.[7] In view of the responsibility now placed in the rule squarely upon an investment company's directors to resolve problems of this kind by appropriate contractual arrangements which adopt procedures to minimize these potential problems and/or clearly allocate legal responsibility, the rule deletes this limitation.

(3) *System designed to prevent unauthorized officer's instructions.* Under the revised proposed rule, the system for preventing unauthorized officer's instructions would have had to have (a) provided for the form, content, and the means for giving, recording and reviewing officer's instructions and (b) been approved by the board of directors of the investment company after having been examined and reported on by an independent public accountant. These requirements were proposed as substitutes for the original proposal, which would have required hard copy instructions signed by two officers, and were proffered in response to public comment that the Commission should require only that adequate controls, reviewed by independent auditors and approved by directors, be established to prevent misuse of instructions. Subparagraph (c)(1) of the rule

[4] Under the proposed revised U.C.C. § 8-317(4) (1977 draft), the interest of a debtor in a certificated security which is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on the books of which the interest of the debtor appears. A nonproprietary account would not appear to be an interest of the custodian or any of its agents which could be reached by their creditors.

[5] See, e.g., item 3 of circular 5 of the Federal Reserve Bank of San Francisco (the Bank) effective Oct. 31, 1977, which provides that, at the request and for the convenience of the member bank depositor, the Bank is prepared to open and maintain, among other things, an "Investment Account" that may be opened and used for the deposit of book-entry securities that are the property of the member bank depositor; and a "General Account" that may be opened and used for the deposit of book-entry securities held by the member bank depositor for account of its customers.

[6] Under the proposed revised U.C.C. § 8-313(1)(d) (1977 draft), transfers of a security to a purchaser in these circumstances occur when the custodian, which is not a clearing corporation, sends a confirmation to the purchaser and makes an appropriate book entry of the purchase. The draft's explanation of changes contrasts this to the proposed revised U.C.C. § 8-313(1)(g) (1977 draft) which requires, when a clearing corporation is effecting the transfer, the appropriate book entry on the books of a clearing corporation only. It states that this difference in documentation results from the fact that clearing corporations will normally control only securities belonging to their customers while other financial intermediaries may themselves be the beneficial owners or pledgees of securities not held in account for the accounts of their customers. It concludes that, in the event of the insolvency of either the financial intermediary or the customer, it appears desirable in addition to an internal book-entry to have some objective evidence of a transfer.

[7] An example of the potential complexities that could arise from using more than one intermediary is in the area of reclamations. Typically, a delivery of securities in a clearing agency is final unless reclaimed within a certain time by the participant whose account has been provisionally debited for the payment. Where the custodian is the participant, it can easily ascertain, by checking its records, whether an investment company has authorized payment for the securities. If there is no instruction to pay the amount debited, the custodian could readily return the securities and have the provisional debit canceled. On the other hand, where the participant is an agent twice or further removed from the custodian, there may not be enough time to ascertain the authority and make reclamation where the transaction has not been authorized.

now requires only that the investment company have a system reasonably designed to prevent unauthorized officer's instructions which provides, at least, for the form, content, and means of giving, recording, and reviewing the instructions. The rule thus deletes the requirement that the system be approved separately by the board of directors since this particular element of directorial oversight now is subsumed within the broader requirement in subparagraphs (c)(3) and (d)(5) of the rule that the board of directors approve the entire depository arrangement. This approach also responds, in part, to public comment that a special accountant's examination and report on the system would not be cost effective in view of the current requirement in Form N-1R[8] that an annual review of an investment company's system of internal accounting control be conducted by an independent public accountant whose opinion must be included in the investment company's annual report.

(4) *Standing or specific officer's instructions.* Under the revised proposed rule, when directed in a specific or standing officer's instruction the depository could have made payments from any cash received by it (a) to or for the account of an investment company to the investment company's account with its custodian or (b) to the depository for fees or penalties or for deliveries not reclaimed by the investment company. The depository could have made other cash payments to or for an investment company's account with it—or transfer, exchange, or deliver an investment company's securities—only under a specific officer's instruction. These restrictions were proposed to prevent loss of investment company securities and cash through unauthorized transactions. The rule eliminates these restrictions because a system approved by an investment company's board of directors pursuant to subparagraph (c)(1) of the rule which is reasonably designed to prevent unauthorized officer's instruction should provide the necessary protections.

(5) *Valued deliveries.* Under the revised proposed rule, when an investment company sold a security the depository could have delivered it only upon payment or the depository's guarantee of payment, except where the depository delivered it to the custodian of the investment company for the account of the investment company. Conversely, when an investment company bought a security, the depository could have debited the investment company (or the participant for the account of the investment company) for the payment only upon delivery of the security or the depository's guarantee of delivery. Adapted from the model custodian agreement, these provisions were proposed to protect an investment company from defaults of the other party to the transaction or of his agent.

Arguing that the risk of loss to investment companies from defaults in securities depositories is very limited, the commentators made three points about this condition in revised proposed rule 17f-4:

(a) A participant in a typical depository system may not order a security delivered unless it has the security in its account nor may its account be debited for payment without delivery of the security thereto.

(b) Transactions may be reversed because of nonpayment in certain cases, such as when the receiver has not yet himself delivered the security to another.

(c) When delivery cannot be reversed in a clearing agency which acts as a securities depository, participants customarily have recourse to the clearing or participants fund.

In light of these comments and for the following policy reason, these conditions respecting valued deliveries have been eliminated from the rule. Although the Commission has adequate rulemaking authority in section 17(f) to impose all conditions necessary or appropriate for the protection of investors in connection with the use by investment companies of depository systems, insofar as the Commission has jurisdiction over clearing agencies it appears more desirable that any consideration of these issues be made with respect to the widest spectrum of participants in the broader context of the adoption of final registration standards under the Securities Exchange Act for clearing agencies including those which act as securities depositories.

(6) *Lost or stolen certificated securities.* Under the revised proposed rule, clearing agencies would have been required to take all appropriate and necessary steps to obtain replacement of certificated securities that had been lost, apparently destroyed, or wrongfully taken. Without the stock certificate, for example, a stockholder cannot readily transfer his stock and might even lose his interest in it. The rule eliminates this provision because the problem it addresses is not peculiar to investment companies. It appears more appropriate that any consideration of this issue be made with respect to the widest spectrum of participants in the broader context of the adoption of final registration standards under the Securities Exchange Act for clearing agencies including those which act as securities depositories.

(7) *Voting and proxy mechanism.* The revised proposed rule would have required a mechanism to be provided for the exercise by an investment company of the right to vote its securities deposited in clearing agencies and for the transmission to it of all notices, proxies and proxy soliciting material, and other written communications of the issuer to its shareholders. It was proposed to preserve the rights of investment companies to vote and promptly to receive all shareholder materials.[9] The rule eliminates this requirement since:

(1) Clearing agencies customarily assign to the participant the voting right in a security held for a participant. Participants which have deposited the securities for the account of their customers, in turn, typically provide these customers with an opportunity to instruct them how to vote the securities.[10]

(2) Securities Exchange Act rule 14a-3(d) (42 FR 35953 (to be codified in 17 CFR 240.14a-3(d))) and note 1 thereto already provide an adequate mechanism for the transmission of shareholder materials to beneficial owners of securities deposited in clearing agencies.

(8) *Inspection of records.* Under the revised proposed rule, the records of the custodian or intermediary relating to depository services rendered to an investment company would have been open to inspection by representatives of the Commission during the regular business hours of the custodian or intermediary. This was proposed specifically to make available to Commission inspection all the interlinking parts of a depository arrangement used by an investment company. The rule drops this provision because, under section 17(b) of the Securities Exchange Act (15 U.S.C. 78g(b)), the records of member firm custodians are already subject to this examination. With respect to bank custodians, no need for these examinations by the Commission typically would arise in custodianships which follow the model custodian agreement since, under section 11 of the model custodian agreement, the books and records of the custodian pertaining to its actions under the agreement are open to inspection and audit at reasonable times by officers of and auditors employed by the investment company. However, pursuant

[8] 4 Fed. Sec. L. Rep. (CCH) ¶51,968.

[9] Compare with sec. 8 of model custodian agreement.

[10] Sec. 8, model custodian agreement; Art. III, Sec. 1, NASD Rules of Fair Practice, as interpreted by the NASD board of governors, NASD Manual, pp. 2032-2039; rules 450 and 452, of the New York Stock Exchange, 2 New York Stock Exchange Guide (CCH) ¶¶ 2450 and 2452; sec. 16, rules 575 and 577 of the American Stock Exchange, 2 American Stock Exchange Guide (CCH) ¶¶ 9527 and 9529.

to rule 31a-3 (17 CFR 270.31a-3) bank custodians and other types of agents maintaining records for an investment company must agree in writing to make available on request such records, and it has been the experience of the Commission in its investment company inspection program that bank custodians have generally responded promptly and fully to visitations by the Commission's staff. Further, the provisions of subparagraphs (d)(4) (respecting the furnishing by custodians of internal accounting control reports) and (d)(5) (respecting directorial approval of custodian arrangements) should provide investment company shareholders sufficient safeguards.

(9) *Liability for losses or damages.* Under the revised proposed rule, a depository arrangement would have provided that (1) the custodian would be liable to the investment company for losses or damages resulting from any negligence or misconduct of the custodian or its employees or agents relating to the use of the depository or its failure to enforce effectively such rights as it may have against the intermediary, and (2) the custodian would have a right of subrogation against the intermediary where the losses or damages resulted from the negligence or misconduct of the intermediary or its employees or agents or its failure to enforce effectively such rights as it may have against the depository.

This provision was proposed to protect investment companies by requiring that these rights and duties be provided by agreement in a situation in which there was any question as to whether they might not be provided at common law or by existing agreements. The rule eliminates this requirement because:

(1) It does not appear that, exclusively in section 17(f) of the Act, Congress is concerned about the standard of liability of custodians.

(2) The Commission believes that, if the rule is silent on the question, the scope of duties of care and standards for imposing civil liability should be determined by a court on principles of applicable law—viz common law, relevant provisions of State statutory law and the Uniform Commercial Code—unless the parties agree to specify duties of care and standards of liability.

(3) On this matter, there appears to be no conflict of interests between an investment company and its directors or officers. Thus it can be expected that the board of directors, in exercising their business judgment in considering depository arrangements, would focus closely on legal responsibility for losses or damages to the investment company related to use of the depository system from the negligence or misconduct of any person acting for the investment company in connection with its use of the depository system.

D. *Monitoring of the rule*

The Commission has instructed its Division of Investment Management (Division) to monitor carefully developments under this rule. In framing its final responses to the issues raised by the proposed and revised proposed rules and the comments received thereon, the Division and the Commission both have placed great emphasis on the representations of commentators that, especially in these circumstances, investment company boards of directors could and should properly resolve many of the issues through appropriate business arrangements. In coordinating, supervising, and executing the Commission's compliance and enforcement program respecting investment companies, the Division and the Commission's regional offices will be especially alert to the securities depository arrangements actually used by individual investment companies and the investment company industry generally. Because sound securities depository arrangements are of central importance to safeguarding the interests of investment company shareholders, the Division is expected to report periodically to the Commission with its evaluation of the current status of securities depository arrangements from the standpoint of the need to provide, by rule amendment or otherwise, greater guidance or assistance by the Commission.

E. *Effective date considerations and transitional period*

The effective date of the rule is December 31, 1978. This would enable investment companies to hold book-entry Treasury bills beginning December 31, 1978, when the authority of Reserve banks to issue definitive Treasury bills to entities required by law to hold securities in definitive form will terminate pursuant to the regulations governing book-entry Treasury bills in 31 CFR 350.17. For those investment companies which have already arranged for the deposit of their Treasury securities in the book-entry system, the early effective date will remove the uncertainty of whether or under what conditions the Commission would designate the book-entry system as a permitted depository. It will also enable their custodians to deposit these securities under fewer conditions than were imposed in no-action letters previously issued by the Division.[11]

Similarly, the early effective date will quickly remove any uncertainty as to the conditions under which the Commission will permit the deposit of investment company securities in clearing agencies which act as securities depositories. As of May 1978, 37 investment companies were known to have securities deposited in The Depository Trust Company (DTC),[12] the largest of the clearing agencies which act as securities depositories. The deposits, except for one investment company,[13] were made on the basis of the May 22, 1975, letter of the Division to DTC.[14]

III. TEXT OF THE RULE

Accordingly, 17 CFR Part 270 is amended by adding:

§ 270.17f-4 Deposits of securities in securities depositories.

(a) For the purpose of this rule, a "securities depository" is a system for the central handling of securities where all securities of any particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery of the securities.

(b) A registered management investment company (investment company) or any qualified custodian may deposit all or any part of the securities owned by the investment company in a (1) clearing agency registered with the Commission under Section 17A of the Securities Exchange Act of 1934 (clearing agency), which acts as a securities depository, or (2) the book-entry system as provided in Subpart O of Treasury Circular No. 300, 31 CFR 306, Subpart B of 31 CFR Part 350, and the book-entry regulations of Federal agencies substantially in the form of subpart O, in accordance with the following paragraphs of this rule.

(c) An investment company may deposit the securities in a clearing agency which acts as a securities de-

[11] See, e.g.: (1) State Street Bank and Trust Co. (August 19, 1976) (1976-77 Transfer Binder) FED. SEC. L. REP. (CCH) ¶ 80,848. (2) Provident National Bank (October 26, 1977). (3) Citibank, N.A. (February 10, 1978). (4) Minnesota Mutual Variable Fund D (The First National Bank of St. Paul, Minn.) (February 24, 1978). (5) Harris Trust and Savings Bank (August 18, 1978). (6) Capital Preservation Fund, Inc. (The Bank of California, N.A.) (September 6, 1978).

[12] The Depository Trust Company Newsletter, May 1978, at 9.

[13] State Street deposited securities owned by Massachusetts Financial Development Fund (MFS) in DTC in May 1972, when DTC was known as Central Certificate Service. The deposit was a cooperative pilot project between State Street and MFS. Id. at 8.

[14] Letter to The Depository Trust Company, (1975-76 Transfer Binder) FED. SEC. L. REP. (CCH) ¶ 80,357, which stated that (1) the absence of specific Commission rules on the subject did not in and of itself preclude investment companies from then participating in a securities depository, and (2) an investment company participating in a depository would be required to conform to such rules as the Commission may adopt in the future.

pository under an arrangement that contains the following elements:

(1) The investment company has a system that is reasonably designed to prevent unauthorized officer's instructions and which provides, at least, for the form, content, and means of giving, recording, and reviewing the instructions. An "officer's instruction" is a request or direction to a clearing agency in the name of the investment company by one or more persons authorized by its board of directors to give it.

(2) Upon ceasing to act for an investment company, and subject to its own rules on contributions to a participants fund, the clearing agency shall deliver all securities held for the investment company to a successor clearing agency, custodian, or safekeeper under rule 17f-2 (17 CFR 270.17f-2), to be named by the investment company. Where the investment company has not named one, the clearing agency shall deliver the investment company securities to a bank having the qualifications prescribed in section 26(a)(1) of the Act for trustees of unit investment trusts, to be held by the bank as custodian for the investment company under terms customary to a custodian agreement between banks and investment companies.

(3) The investment company, by resolution of its board of directors, approved the arrangement, and it is reviewed at least annually.

(d) The custodian may deposit the securities in a clearing agency which acts as a securities depository or the book-entry system, or both, under an arrangement that contains the following elements:

(1) The custodian may deposit the securities directly or through one or more agents which are also qualified to act as custodians for investment companies.

(2) The custodian (or its agent) shall deposit the securities in an account that includes only assets held by it for customers.

(3) The custodian shall send the investment company a confirmation of any transfers to or from the account of the investment company. Where securities are transferred to that account, the custodian shall also, by book-entry or otherwise, identify as belonging to the investment company a quantity of securities in a fungible bulk of securities (i) registered in the name of the custodian (or its nominee) or (ii) shown on the custodian's account on the books of the clearing agency, the book-entry system, or the custodian's agent. for this purpose, the term "confirmation" means advice or notice of a transaction; it is not intended to require preparation by a custodian of the confirmation required of broker-dealers under the Securities Exchange Act of 1934.

(4) The custodian, or its agent which deposits the securities, shall promptly send to the investment company reports it receives from the appropriate Federal Reserve Bank or clearing agency on its respective system of internal accounting control. The custodian and all the agents through which the securities are deposited shall send to the investment company such reports on their own systems of internal accounting control as the investment company may reasonably request from time to time.

(5) The investment company, by resolution of its board of directors, approved the arrangement, and it is reviewed at least annually.

IV. Authority

The Commission is adopting the rule under its authority in sections 17(f) and 38(a) of the Act (15 U.S.C. 80a-17(f) and 37(a)). It finds that any changes in the rule from the proposal published in Investment Company Act Release No. 10053 have already been generally subject to comment and pertain to matters of form or are less burdensome than those proposed. In addition, any further notice would delay the effective date of the Rule and possibly cause some investment companies to refrain from investing in U.S. Treasury bills on or after December 31, 1978, when the authority of Reserve banks to issue definitive Treasury bills to entities which are required by law to hold or pledge securities in definitive form will terminate. Further notice and rulemaking procedures under the Administrative Procedure Act (5 U.S.C. 553) are, therefore, impractical, unnecessary, and contrary to the public interest.

By the Commission.

George A. Fitzsimmons,
Secretary.

October 26, 1978.

[FR Doc. 78-30888 Filed 10-31-78; 8:45 am]

[4210-01-M]

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-4737]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain mangement measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: The addresses where flood insurance policies can be obtained are published at 24 CFR 1912.7.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is: (1) For acquisition and construction purposes as defined in Part 1909 of Title 24 of the Code of Federal Regulations and (2) For property located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or contruction except

as authorized by section 202(a) of the Act unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association (NFIA) servicing company for the State.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Kansas	Rice	Unincorporated areas	Sept. 25, 1978, emergency	May 10, 1977	200290-A
Michigan	Newaygo	White Cloud, city of	do	Apr. 11, 1975	260470
North Dakota	Ward	Sawyer, city of	do	Jan. 31, 1975	380145
Colorado	San Juan	Unincorporated areas	Oct. 25, 1974, emergency	Sept. 1, 1978	080267-A
			Sept. 1, 1978, regular		
			Sept. 1, 1978, suspension		
			Sept. 22, 1978, reinstated		
Kentucky	Jessamine	do	Apr. 16, 1973, emergency	Dec. 6, 1974	210125-A
			Aug. 1, 1978, regular		
			Aug. 1, 1978, suspension		
			Sept. 21, 1978, reinstated		
New York	Wyoming	Castile, village of	Sept. 25, 1978, emergency	Feb. 28, 1975	361563
Do	Cattaraugus	South Dayton, village of	do	May 31, 1974	360099-B
				June 18, 1976	
North Dakota	Traill	Herberg, township of	do		380621-new
•	•	•	•	•	•
Colorado	Delta	Hotchkiss, town of	Sept. 26, 1978, emergency	June 21, 1974	08044-A
				Sept. 17, 1976	
Georgia	Hart	Unincorporated areas	do	Jan. 27, 1978	130467
Ohio	Putnam	Fort Jennings, village of	do	May 31, 1974	390468-A
				Sept. 3, 1976	
Texas	Trinity	Trinity, city of	do	Aug. 13, 1976	481033
Arkansas	Saline	Unincorporated areas	Sept. 22, 1978, emergency	Aug. 9, 1977	050191-A
Washington	Franklin	Connell, town of	Sept. 29, 1978, emergency	July 11, 1975	530280-A
				Oct 12, 1976	
North Carolina	Rowan	East Spencer, town of	Mar. 31, 1975, emergency	June 7, 1974	370211-B
			July 3, 1978, regular	July 9, 1976	
			July 3, 1978, suspended		
			Sept. 28, 1978, reinstated		
Virginia	Patrick	Stuart, town of	Aug. 6, 1974, emergency	May 31, 1974	510111-B
			Sept. 1, 1978, regular	Apr. 23, 1976	
			Sept. 1, 1978, suspended		
			Sept. 28, 1978, reinstated		
Vermont	Franklin	St. Albans, city of	Dec. 28, 1973, emergency	May 17, 1974	500058-B
			June 15, 1978, regular	Aug. 13, 1976	
			June 15, 1978, suspended		
			Sept. 28, 1978, reinstated		
Arkansas	Bradley	Unincorporated areas	Oct. 2, 1978, emergency	Aug. 23, 1977	050420-A
Delaware	Sussex	Millville, town of	do	Oct. 18, 1974	100044-A
Texas	Shackleford	Unincorporated areas	Sept. 27, 1978, emergency		481002
New Hampshire	Rockingham	Auburn, town of	Oct. 3, 1978, emergency	Feb. 28, 1975	330176

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified
Ohio	Cuyahoga	Cleveland, city of	390104	Oct. 5, 1978, suspension withdrawn	June 7, 1974
					June 18, 1976
Colorado	Mesa	Grand Junction, city of	080117-A	Oct. 13, 1978, emergency	Feb. 1, 1974
					June 28, 1974
Kentucky	Johnson	Unincorporated areas	210339	do	Nov. 11, 1977
South Carolina	Berkeley	do	450029	do	Sept. 16, 1977
California	Nevada	do	060210-A	Oct. 16, 1978, emergency	Sept. 6, 1977
New York	Warren	Johnsburg, town of	360875	do	Aug. 27, 1976
					July 1, 1977
Alabama	Cullman	Hanceville, town of	010059-B	Sept. 15, 1978, suspension withdrawn	Apr. 12, 1974
					Dec. 19, 1975
California	Sacramento	Sacramento, city of	060266-B	do	Jan. 10, 1975
					Dec. 27, 1977
Colorado	Adams	Northgleen, city of	080257-A	do	Aug. 22, 1975
Florida	Orange	Belle Isle, city of	120181-B	do	July 19, 1974
					Jan. 30, 1976
Do	Palm Beach	Lake Park, town of	120212-B	do	Nov. 23, 1973
					Jan. 30, 1976
Georgia	Clark	Athens, city of	130040-B	do	Apr. 12, 1974
					Feb. 13, 1976
Do	Fulton	College Park, city of	130086-B	do	May 31, 1974
					Sept. 12, 1975
Do	Floyd	Rome, city of	130081-B	do	May 17, 1974
					Jan. 30, 1976
Idaho	Bannock	Inkom, city of	160010-B	do	Sept. 13, 1974
					Dec. 19, 1975

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified
Illinois	Cook	Franklin Park, village of	170094-B	do	Nov. 2, 1973 Mar. 19, 1976
Do	do	Schiller Park, village of	170159-B	do	Nov. 9, 1973 Apr. 9, 1976
Do	do	Wheeling, village of	170173-B	do	Aug. 27, 1976 Dec. 24, 1976
Kansas	Allen	Iola, city of	200003-B	do	Dec. 17, 1973 Mar. 7, 1975
Do	Harvey	Halstead, city of	200131-B	do	June 7, 1974 Jan. 23, 1976
Louisiana	St. Mary	Franklin, city of	220195-B	do	Mar. 22, 1974 Aug. 6, 1976
Maine	Piscataquis	Abbot, town of	230406-A	do	Feb. 14, 1975
Massachusetts	Middlesex	Boxborough, town of	250184-B	do	Sept. 20, 1974 Dec. 17, 1976
Do	Hampden	East Longmeadow, town of.	250138-B	do	June 14, 1974 Aug. 20, 1976
Michigan	Wayne	Southgate, city of	260242-B	do	Apr. 12, 1974 Apr. 18, 1975
Minnesota	Anoka	Circle Pines, city of	270009-A	do	July 30, 1976
Do	Ramsey	North St. Paul, city of	270382-B	do	Mar. 29, 1974 Oct. 8, 1976
Missouri	Jackson	Blue Springs, city of	290169-B	do	June 28, 1974 May 21, 1976
Do	do	Raytown, city of	290176-B	do	Dec. 21, 1973 Sept. 17, 1976
Do	St. Charles	Unincorporated areas	290315-A	do	Sept. 15, 1978
Do	St. Louis	do	290327-A	do	Do.
North Carolina	Rowan	Granite Quarry, town of	370212-B	do	Mar. 8, 1874 Apr. 2, 1976
North Dakota	Ward	Burlington, city of	380141-A	do	Apr. 16, 1976
New Jersey	Burlington	Moorestown, township of.	340105-A	do	Mar. 16, 1973
Do	Essex	West Orange, town of	340197-A	do	June 21, 1974
New York	Rockland	Spring Valley, village of.	365344-B	do	Aug. 31, 1973
Do	Monroe	Wheatland, town of	360438-B	do	Feb. 22, 1974 Oct. 15, 1976
Oregon	Clatsop	Cannon Beach, city of	410029-B	do	June 21, 1974 Nov. 28, 1975
Rhode Island	Kent	Conventry, town of	440004-A	do	Sept. 1, 1978
Vermont	Lamoille	Morristown, town of	500064-B	do	May 31, 1974 Apr. 22, 1977
Virginia	Rockingham	Grottoes, town of	510138-B	do	June 28, 1974 Apr. 30, 1976
Do	Giles	Narrows, town of	510068-B	do	Feb. 1, 1974 Feb. 27, 1976
Wisconsin	Manitowac	Unincorporated areas	550236-A	do	Feb. 7, 1975
Do	Waukesha	Menomonee Falls, village of.	550483-B	do	Sept. 13, 1974 Aug. 27, 1976
Do	Kenosha	Silver Lake, village of	550210-B	do	Dec. 28, 1973 July 30, 1976
Alabama	Mobile	Satsuma, city of	010172-B	Sept. 29, 1978, suspension withdrawn	May 3, 1974 Jan. 9, 1976
Colorado	San Miguel	Unincorporated areas	080166-A	do	Sept. 29, 1978
Do	do	Telluride, town of	080168-B	do	June 28, 1974 Jan. 2, 1976
Connecticut	Fairfield	Milford, city of	090082-B	do	Aug. 2, 1977
Do	do	Shelton, city of	090014-A	do	May. 24, 1974
Do	Hartford	Windsor, town of	090041-B	do	Oct. 5, 1973 Apr. 15, 1977
Delaware	Kent	Leipsic, town of	100014-C	do	Aug. 9, 1974 Jan. 9, 1976
Florida	Orange	Apopka, city of	120180-B	do	July 19, 1974 Mar. 5, 1976
Do	do	Winter Garden, city of	120187-B	do	July 19, 1974 Mar. 26, 1976
Illinois	De Kalb	De Kalb, city of	170182-A	do	June 28, 1974
Do	Lake	Fox Lake, village of	170362-C	do	June 21, 1974 Dec. 3, 1976
Do	Jackson	Murphysboro, city of	170302-B	do	Apr. 12, 1975 Apr. 16, 1976
Do	do	Robbins, village of	170154	do	Apr. 12, 1974
Do	Du Page	Warrenville, city of	170218-B	do	May 24, 1974 Oct. 24, 1975
Iowa	Johnson	Coralville, city of	190169-B	do	June 14, 1974 May 14, 1976
Do	Clayton	Elkader, city of	190073-B	do	Feb. 8, 1974 Jan. 23, 1976
Do	Chickasaw	Nashua, city of	190068-B	do	May 24, 1974 Apr. 16, 1976
Kansas	Dickinson	Abilene, city of	200074-B	do	Jan. 9, 1974 Dec. 12, 1975
Do	Thomas	Colby, city of	200350-A	do	Feb. 15, 1974
Do	Geary	Junction City, city of	200112-B	do	Feb. 1, 1974
Do	Pawnee	Larned, city of	200259-B	do	Do.
Do	Harvey and Sedgwick.	Sedgwick, city of	200134-B	do	June 7, 1974 Nov. 7, 1975
Massachusetts	Bristol	Attleboro, city of	250049-B	do	Aug. 16, 1974 Dec. 10, 1976

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified
Massachusetts	Hampden	Chicopee, city of	250137-A	do	Apr. 12, 1974
Do	Norfolk	Sharon, town of	250252-B	do	Oct. 18, 1974
					Nov. 19, 1976
Michigan	Genessee	Davison, city of	260074-B	do	May 17, 1974
Do	do	Goodrich, village of	260397-B	do	July 29, 1977
Minnesota	Le Sueur	Le Sueur, city of	270248-B	do	Nov. 2, 1973
					Apr. 2, 1976
Do	Hennepin	Mound, city of	270176-B	do	June 7, 1974
					May 7, 1976
Do	Scott	Prior Lake, city of	270432-B	do	July 26, 1974
					Aug. 15, 1975
Do	Roseau	Roseau, city of	270414-B	do	Mar. 8, 1974
Do	Scott	Shakopee, city of	270434-C	do	June 7, 1974
					May 28, 1976
Do	Wabasha	Wabasha, city of	270490-B	do	Mar. 8, 1974
					June 11, 1976
Do	Wilkins	Unincorporated areas	270519-A	do	Sept. 29, 1978
Mississippi	Lafayette	Oxford, city of	280094-B	do	June 7, 1974
					Feb. 27, 1976
Missouri	Boone	Columbia, city of	290036-B	do	Aug. 28, 1971
Do	St. Louis	Webster Groves, city of	290394-B	do	Mar. 15, 1974
					Aug. 20, 1976
Nebraska	Custer	Broken Bow, city of	310051-B	do	Jan. 23, 1974
					Sept. 26, 1975
Do	Cass	Cedar Creek, village of	310030-A	do	Sept. 15, 1978
New Jersey	Mercer	Washington, township of.	340255-B	do	May 17, 1974
					July 9, 1976
New York	Westchester	Ardsley, village of	360902-B	do	Apr. 13, 1973
					Mar. 26, 1976
Do	Onodaga	Manlius, village of	360977-B	do	Aug. 2, 1974
Do	Erie	Marilla, town of	360250-B	do	May 17, 1974
					Apr. 23, 1976
Do	Monroe	Pittsford, town of	360439-B	do	Dec. 28, 1973
					Oct. 24, 1975
Do	Orleans	Yates, town of	360645-B	do	June 28, 1974
					July 16, 1976
North Carolina	Transylvania	Brevard, city of	370231-B	do	June 14, 1974
					Aug. 20, 1976
Do	Rowan	China Grove, town of	370210-A	do	Jan. 9, 1974
Do	Rockingham	Reidsville, city of	370209-B	do	Mar. 1, 1975
					July 2, 1976
Do	Rowan	Spencer, town of	370216-B	do	Mar. 1, 1974
					Apr. 23, 1976
Ohio	Meigs	Middleport, village of	390388-B	do	May 31, 1974
					May 21, 1976
Do	Trumbull	Unincorporated areas	390535-A	do	Sept. 29, 1978
Do	Columbiana	Wellsville, city of	390088-C	do	Jan. 16, 1974
Do	Franklin	Westerville, city of	390179-B	do	Nov. 2, 1975
					Aug. 20, 1976
Oregon	Douglas	Glendale, city of	410063-B	do	Dec. 28, 1973
					Apr. 23, 1976
Do	Union	Island City, city of	410220-B	do	Aug. 30, 1974
					Dec. 5, 1975
Do	do	North Powder, city of	410221-B	do	Aug. 30, 1974
Pennsylvania	Westmoreland	Allegheny, township of	420869-B	do	Aug. 2, 1974
					June 18, 1976
Do	Luzerne	Bear Creek, township of	421136-B	do	Dec. 20, 1974
					July 23, 1976
Do	Bucks	Bristol, township of	420984-B	do	July 20, 1973
					Feb. 10, 1978
Do	do	Doylestown, township of	420185-B	do	Oct. 18, 1974
Do	Erie	Fairview, township of	420450-A	do	Nov. 15, 1974
Do	Venago	Franklin, city of	420836-C	do	Sept. 14, 1973
					May 31, 1974
Do	Allegheny	Harrison, township of	420041-B	do	Nov. 2, 1973
					June 4, 1976
Do	Westmoreland	Hempfield, township of	420878-B	do	July 26, 1974
					Aug. 6, 1976
Do	Huntingdon	Huntingdon, borough of	420436-B	do	Dec. 6, 1974
					Mar. 7, 1976
Do	Elk	Johnsonburg, borough of.	420443-B	do	June 29, 1973
					May 14, 1976
Do	Erie	Lawrence Park, township of.	420451-B	do	May 31, 1974

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified
Do	Carbon	Mahoning, township of	421041-B	do	July 26, 1974
					Oct. 8, 1976
Do	Westmoreland	New Kensington, city of	420891-B	do	Mar. 1, 1974
					May 14, 1976
Do	do	North Huntingdon, township of.	420893-B	do	Sept. 14, 1973
					Sept. 24, 1976
Do	Bucks	Plumstead, township of	420199-B	do	Aug. 24, 1973
					July 9, 1976
Do	Berks	Reading, city of	420145-B	do	Dec. 28, 1973
					July 16, 1976
Do	Elk	Ridgway, township of	420445-A	do	Sept. 12, 1975
Do	Allegheny	Sharpsburg, borough of	420073-B	do	Sept. 29, 1978
Do	Bucks	Warrington, township of	420208-B	do	June 28, 1974
					Aug. 13, 1976
Do	do	Warwick, township of	420209-B	do	July 26, 1974
					July 30, 1976
Do	Allegheny	West Elizabeth, borough of.	420083-B	do	Nov. 30, 1973
					July 23, 1976
Do	do	Wilkins, township of	420090-B	do	May 10, 1974
					June 25, 1976
South Carolina	Georgetown	Georgetown, city of	450087-B	do	June 7, 1974
					May 28, 1975
Do	Greenville	Simpsonville, town of	450092-B	do	May 17, 1974
					Apr. 30, 1976
Texas	McLennan	Bellmead, city of	480457-B	do	Mar. 15, 1974
					Mar. 12, 1976
Do	do	Beverly Hills, city of	480925-A	do	Nov. 12, 1976
Do	Dallas	Sachse, city of	480186-B	do	Feb. 22, 1974
					July 2, 1976
Utah	Davis	Bountiful, city of	490039-A	do	Oct. 26, 1973
Vermont	Washington	Moretown, town of	500116-B	do	May 31, 1974
					Sept. 24, 1976
Do	Rutland	Rutland, town of	500267-B	do	Feb. 7, 1975
					Sept. 24, 1976
Virginia	Bedford	Unincorporated areas	510016-A	do	Apr. 25, 1975
Do	Scott	Clinchport, town of	510143-B	do	Mar. 8, 1974
					June 25, 1976
Do	Fluvanna	Columbia, town of	510059-B	do	Dec. 28, 1973
					May. 14, 1976
Do	Grayson	Galax, city of	510066-B	do	Aug. 2, 1974
					Mar. 19, 1976
Do	Greensville	Unincorporated areas	510073-A	do	Dec. 20, 1974
Do	Prince William.	Manassas Park, city of	510123-B	do	May 31, 1974
					June 4, 1976
Do	Pulaski	Unincorporated areas	510125-A	do	Aug. 2, 1974
					Apr. 9, 1976
Wisconsin	Milwaukee	Oak Creek, city of	550279-B	do	Mar. 22, 1974
					Aug. 6, 1976
Do	Vernon	Unincorporated areas	550450-A	do	Jan. 3, 1975
Wyoming	Lincoln	Diamondville, town of	560034-B	do	May 20, 1977

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	*	*	*	*
North Carolina	Lee	Unincorporated areas	October 4, 1978, emergency	June 30, 1978	370331
Oklahoma	Choctaw	Soper, town of	do		400507-new
Texas	Sutton	Unincorporated areas	do		481247
Virginia	Lunenburg, Victoria, and Kenbridge.	do	Oct. 5, 1978, emergency	July 25, 1978	510309

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30403 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4738]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program (NFIP). The identification of such areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain management, or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATE: The date listed in the eighth column of the table or December 1, 1978, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction of buildings as defined in Part 1909 of Title 24 of the Code of Federal Regulations, and

(2) For buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

For communities participating in the NFIP (see the fifth column in the table for a community's program status), this requirement applies on the date listed in the eighth column. For communities not participating in the program, section 202 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area effective 1 year from the hazard identification date (the date in the eighth column of the table).

This 30-day period before the map action becomes effective does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of 6 months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The 6-month period shall be considered to begin on December 1, 1978, or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the 1-year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with part 1915 of title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBM's in effect).

[4210-01-C]

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
FL	Union	City of Lake Butler 01	120595A	E-5	I	F	Sept. 22, 1978	Sept. 22, 1978	John Shaw, Mayor P. O. Box 598 Lake Butler, FL 32054 Phone: (904) 496-3401
GA	Laurens	Municl. of Dublin 0001A - 0002A	130217	E-8, 11, 12, 14	I	F	July 11, 1975	Sept. 22, 1978	Robert E. Cochran, Mayor P. O. Box 690 Dublin, GA 31021 Phone: (912) 272-1620
GA	Worth	Municl. of Sumner 0001A	130486	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	W. D. Whitten, Mayor Sumner, GA 31789 Phone: (912) 776-4945
KY	Montgomery	Montgomery County (Uninc. Areas) 0004B - 0006B	210326	N-10, 11, 12, 14	I	F	Oct. 21, 1977	Sept. 22, 1978	Harry Hofsman, Judge Courthouse Box 640C Mt. Sterling, KY 40353 Phone: (606) 498-1932
MN	Morrison	City of Lastrup 01	270298B	E-12, 14	I	F	Sept. 9, 1974 Sept. 19, 1975	Sept. 22, 1978	Alcuin Welle, Mayor Lastrup, MN 56344 Phone: (612) 468-6061
MN	Winona	City of Stockton 0001B	270532	E-11, 12, 14	I	F	Aug. 23, 1974 Oct. 24, 1975	Sept. 22, 1978	David Kiral, Mayor City Hall Stockton, MN 55988 Phone: (507) 689-2774
NC	Sampson	Sampson County (Uninc. Areas) 0001A-0014A	370220	N-10, 11, 12, 14	I	F	Dec. 20, 1974	Sept. 22, 1978	Paul Butler, Jr., Mgr. Box 313, Rowan Rd. Clinton, NC 28328 Phone: (919) 592-6308
OH	Fairfield	Village of Carroll 01	390817A	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	Charles E. O'Hara, Mayor 55 Park Street Carroll, OH 43112 Phone: (614) 469-7427
OH	Adams	Village of Cherry Fork 01	390819A	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	Wendell Games, Mayor Box 64 Cherry Fork, OH 45618 Phone: (513) 695-0416
OH	Shelby	Village of Fort Loramie 0001A	390830	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	Lester J. Barlage, Mayor 71 East View Drive Fort Loramie, OH 42845 Phone: (513) 295-3571
OH	Stark	Village of Limaville 01	390836A	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	Louis L. Wisney, Mayor 160 Church St. Limaville, OH 44540 Phone: (216) 821-2783 (home)
SC	Lexington	Town of Chapin 0001A	450236	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	C. E. Shealy, Mayor P. O. Box 183 Chapin, SC 29036 Phone: (803) 345-2237
SC	Chesterfield	Town of Chesterfield 0001A	450237	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	J. C. Willis, Mayor P. O. Box 350 Chesterfield, SC 29709 Phone: (803) 623-2131
SC	Greenwood	Town of Ninety-Six 0001A	450244	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	Jean S. Belue, Mayor P. O. Box 8 Ninety-Six, SC 29666 Phone: (803) 543-2200
TN	Warren	Town of Centertown 0001A	470374	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	Woodrow Lorance, Mayor Rt. 1, Box 195 McMinnville, TN 37110 Phone: (615) 939-2681
TN	Jefferson	Town of New Market 0001A	470385	N-5	I	F	Sept. 22, 1978	Sept. 22, 1978	Jack Radar, Mayor Rt. # 2, Box 172 New Market, TN 37820 Phone: (615) 475-9216
WI	Lincoln	Lincoln County (Uninc. Areas) 0001A-0012A	550585	E-5	I	F	Sept. 22, 1978	Sept. 22, 1978	Andrew MacMorran, Zoning Officer, Courthouse Merrill, WI 54452 Phone: (715) 536-8611

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CO	Washington	Town of Otis 0001B	080178 B	N-8,11,12	I	F	24 MAY 74 31 OCT 75	26 SEP 78	Honorable Dennis Rhoades - Mayor - P.O. Box 95 - Otis, CO 80743 (303) 246-3235
CO	Pueblo	Town of Rye 0001A	080150 A	N-8,11,12	I	F	18 JUL 75	26 SEP 78	Honorable Harold C. Petersen - Mayor - P. O. Box 316 - Rye, CO 81069 (303) 489-2221
MT	Uninc. Area	Rosebud County Index Map	300069 B	N-12	I	F	2 AUG 74 22 NOV 77	26 SEP 78	Mr. Eldon Rice - County Planner - County Courthouse - Forsyth, MT 59327 (406) 356-7551
NE	Platte	City of Humphrey 0001B	310281 B	N-11	I	F	11 JUL 75 3 OCT 75	26 SEP 78	Honorable Fritz Engel - Mayor - City Hall - Humphrey, NB 68642 (402) 923-1544
TX	Wichita	City of Pleasant Valley 0001A	480661 A	N-8,11,12	I	F	17 DEC 76	26 SEP 78	Honorable M. F. Medlinger - Mayor - Route 2, Box 129 - Iowa Park, TX 76367 (817) 855-3711
TX	Lynn	City of Tahoka 01B-02B	480454 B	E-12	I	F	10 MAY 74 19 MAR 76	26 SEP 78	Mr. Ray Mason - City Administrator - Box 300 - Tahoka, TX 79373 (806) 998-4211
AR	Uninc. Area	Washington County 0001B-0011B	050212 B	N-11,12	I	F	10 MAY 77	26 SEP 78	Honorable Vol B. Lester - County Judge - County Courthouse - Fayetteville, AR 72701 (501) 521-4800
AR	Desha	City of Watson 0001B	050072 B	E-8,11,12	I	F	30 AUG 74 17 OCT 75	26 SEP 78	Honorable C. D. Dupree - Mayor - City Hall - Watson, AR 71674 (501) 644-3366
CA	Fresno	City of Coalinga 0001B	060045 B	E-8,11,12	I	F	1 MAR 74 17 OCT 75	26 SEP 78	Mr. Glenn H. Marcussen - City Manager - Sixth & Elm Streets - Coalinga, CA 93210 (209) 935-1533
CA	Del Norte	City of Crescent City 0001B	060039 B	E-8,11,12	C	F	3 MAY 74 13 DEC 74	26 SEP 78	Mr. Michael J. Young - City Manager - 450 H Street - Crescent City, CA 95531 (707) 464-9511
CA	San Mateo	City of Pacifica 0001B-0002B	060323 B	E-8,11,12	C	F	28 JUN 74 5 DEC 75	26 SEP 78	Honorable Janice Fulford - Mayor - 170 Santa Maria Avenue - Pacifica, CA 94044 (415) 355-4151
CA	Tulare	City of Porterville 0001B	060407 B	E-8,11,12	I	F	12 APR 74 5 DEC 75	26 SEP 78	Honorable Theodore Ensslin - Mayor - 291 North Main Street - Porterville, CA 93257 (209) 784-1400
CO	Huerfano	Town of La Veta 0001A	080084 A	E-8,11,12	I	F	27 DEC 74	26 SEP 78	Honorable Lewis Kopine - Mayor - P.O. Box 174 - La Veta, CO 81055 (303) 742-3206

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Blount	Town of Blountsville 0001A	010371	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Jack Millwood, Mayor P. O. Box 186 Blountsville, AL 35031 Phone: (205) 429-2406
AL	Tallapoosa	Town of Camp Hill 0001A	010374	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Frank George Holley, Mayor P. O. Box 68 Camp Hill, AL 36850 Phone: (205) 896-2291
AL	Barbour	Town of Clayton 0001A	010377	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	A. B. Robertson, Jr., Mayor P. O. Box 193 Clayton, AL 36016 Phone: (205) 775-3542
AL	Lowndes	Town of Fort Deposit 0001A	010384	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Bobby A. Davis, Mayor P. O. Drawer S. Fort Deposit, AL 36032 Phone: (205) 227-4331
FL	Union	Town of Raiford 01	120593A	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	J. D. Griffis, Mayor P. O. Box 98 Raiford, FL 32083 Phone: (904) 431-1373
GA	Coffee	Munici. of Nicholls 0001A	130483	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	DeWayne Streat P. O. Box 218 Nicholls, GA 31554 Phone: (912) 345-2972
GA	Bartow Polk	Munici. of Taylorsville 0001A	130487	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Mel Rhodes, Mayor P. O. Box 28 Taylorsville, GA 30178 Phone: (404) 684-5144
IL	Knox	Village of Altona 01	170941A	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Roger Hagerty, V. Pres. Village Hall Altona, IL 61414 Phone: (319) 484-6141
IL	Henderson	Village of Biggsville 01	170945A	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Max Lant, V. Pres. Village Hall Biggsville, IL 61418 Phone: (309) 627-2579
IN	Lawrence	Lawrence County (Uninc. 0001A-0006A Areas)	180441	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	James E. Speer, Co. Auditor Courthouse Bedford, IN 47421 Phone: (812) 275-3111
KY	Trigg	City of Cadiz 0001A	210354	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	W. J. Hopson, Mayor Marion St. Cadiz, KY 42211 Phone: (502) 522-8244
KY	Pike	City of Cedarville 01	210355A	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Judge Wayne T. Rutherford Courthouse Pikeville, KY 41501 Phone: (606) 432-2553
MN	Stearns	City of Richmond 01	270453B	N-8, 11, 14	I	F	March 29, 1974 May 28, 1976	Sept. 29, 1978	Marcus Zumwelee, Mayor City Hall Richmond, MN 56368 Phone: (612) 597-2074
MN	Redwood	City of Walnut Grove 01	270718A	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Bruce Thoma, Mayor City Hall Walnut Grove, MN 56180 Phone: (507) 859-2135
MS	Lafayette	Town of Abbeville 0001A	280309	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Joe W. Ford, Mayor P. O. Box 9 Abbeville, MS 38601 Phone: (601) 234-6686
NC	Bertie	Bertie County (Uninc. 0001A-0010A Areas)	370290	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	John Whitehurst, Mgr. P. O. Box 530 Windsor, NC 27983 Phone: (919) 794-2139
OH	Lawrence	Village of Chesapeake 0001A	390608	E-8, 11, 12, 14	I	F	Jan. 10, 1975	Sept. 29, 1978	Howard Brown, Mayor Rockwood Avenue Chesapeake, OH 45619 Phone: (614) 867-5600
OH	Williams	Village of Edgerton 0001A	390826	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Max S. Lees, Mayor Town Hall Edgerton, OH 43517 Phone: (419) 298-2722

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OH	Miami	Village of Ludlow Falls 01	390838A	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Floyd A. White, Mayor P. O. Box 73 Ludlow Falls, OH 45339 Phone: (513) 698-4097
OH	Fulton	Village of Metamora 01	390840A	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	George Flack, Mayor 234 Gernsey Avenue Metamora, OH 43540 Phone: (419) 644-2081
OH	Madison	Village of Mount Sterling 0001A	390844	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Lowell Anderson, Mayor 2 S. London Street Mt. Sterling, OH 43143 Phone: (614) 869-2040
OH	Guernsey	Village of Quaker City 01	390853A	N-S	I	F	Sept 29, 1978	Sept. 29, 1978	Harry Tarlton, Mayor P. O. Box 141 Quaker City, OH 43773 Phone: (614) 679-2545
OH	Trumbull	Village of West Farmington 01	390864A	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	James E. Richards, Mayor Box 56 West Farmington, OH 4449 Phone: (216) 889-2628
SC	Newberry	Newberry County (Unino. 0001A-0009A Areas)	450224	E-S	I	F	Sept. 29, 1978	Sept. 29, 1978	Edward F. Lominack, Jr. Purchasing & Plan. Coord. P. O. Box 156 Newberry, SC 29108 Phone: (803) 276-0681
TN	Obion	City of Woodland Mills 0001A	470381	N-S	I	F	Sept. 29, 1978	Sept. 29, 1978	R. R. Thompson, Mayor P. O. Box 153 Woodland Mills, TN 38271 Phone: (901) 885-1268

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AZ	Unine. Area	Cochise County 0001A-0063A	040012 A	E-8,10,11,12	I	F	6 SEP 74	3 OCT 78	Mr. James D. Altenstadter - Planning Director - Cochise Count Planning Department - P.O. Drawer AC - Bisbee, AZ 85603 (602) 432-5162
OR	Jefferson	City of Madras 0001B	410103 B	E-11,12	I	F	28 JUN 74 14 NOV 75	3 OCT 78	Honorable Dick Cowden - Mayor - 416 Sixth Street - Madras, OR 97741 (503) 475-2344
VT	Windham	Town of Grafton 02C-14C	500129 C	E-9	I	F	3 OCT 78	3 OCT 78	Ms. Margery H. Heindel - Chairma Board of Selectmen - Town Hall - Grafton, VT 05146 (802) 843-2419

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD P/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	St. Clair	Town of Margaret 01	010393A	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	J. G. Morse, Mayor P. O. Box 127 Margaret, AL 35112 Phone: (205) 629-2702
AL	Tallapoosa	Town of Daviston 0001A	010380	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	Ray Dunn, Mayor Box 65 Daviston, AL 36256 Phone: (205) 395-2368
AL	Randolph	Town of Wedowee 0001A	010401	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	George Perry, Mayor P. O. Box 270 Wedowee, AL 36278 Phone: (205) 357-2247
GA	Whitfield	Munici. of Tunnel Hill 0001A	130489	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	Barbara Vaughn, Mayor P. O. Box 159 Tunnel Hill, GA 30755 Phone: (404) 673-5535
IL	Whiteside	Village of Deer Grove 01	170948A	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	John Joe Conney, V. Pres. Village Hall Deer Grove, IL 61243 Phone: (815) 438-4232
IL	Henry	Henry County (Uninc. 0001A-0010A Areas) 0012A-0014A	170739	E-10, 11, 12, 14	I	F	March 21, 1975	Oct. 6, 1978	Orville Bartz, Zoning Officer Courthouse Cambridge, IL 61238 Phone: (309) 937-3312
OH	Trumbull	Village of Cortland 0001A	390823	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	William J. Roush, Mayor 194 Latin Street Cortland, OH 44410 Phone: (216) 637-1572
OH	Pickaway	Village of Derbyville 01	390712A	N-8, 11, 12, 14	I	F	Feb. 7, 1975	Oct. 6, 1978	Naoma Griffith, Mayor R. R. # 1 Williamsport, OH 43164 Phone: (614) 474-4463
OH	Williams	Village of Edon 0001A	390827	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	James R. Travsch, Mayor P. O. Box 366 Edon, OH 43518 Phone: (419) 272-3345
OH	Lake	Lake County (Uninc. 0001B-0003B Areas)	390771	E-11	I	F	Jan. 6, 1978	Oct. 6, 1978	John F. Platz, Ch. Co. Comm. 105 Main St. Dolan Bldg. Painesville, OH 44077 Phone: (216) 352-6281
OH	Miami	Village of Laura 01	390835A	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	Robert K. Randall, Jr., Mayor 130 North Main Laura, OH 45337 Phone: (513) 698-4126
OH	Union	Village of Magnetic Springs 01	390839A	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	Ernest L. Styer, Mayor 28 Rose Street Magnetic Springs, OH 43036 Phone: (513) 348-2888 (home)
OH	Tuscarawas	Village of Mineral City 0001A	390842	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	June Brunk, Mayor P. O. Box 202 Mineral City, OH 44656 Phone: (216) 859-2222
OH	Auglaize	Village of New Knoxville 01	390848A	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	Delcris Fischbach, Mayor 511 South Main New Knoxville, OH 45871 Phone: (419) 753-2026
OH	Logan	Village of Quincy 0001A	390854	N-5	I	F	Oct. 6, 1978	Oct. 6, 1978	Foster Evans, Mayor 115 West New Street Quincy, OH 43343 Phone: (513) 585-5314 after 4

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OH	Guernsey	Village of Senecaville 01	390858A	N-S	I	F	Oct. 6, 1978	Oct. 6, 1978	Wendell Frame, Mayor Main Street Senecaville, OH 43780 Phone: (614) 685-5050
OH	Defiance	Village of Sherwood 01	390859A	N-S	I	F	Oct. 6, 1978	Oct. 6, 1978	Virgil H. Horne, Mayor P. O. Box 23 Sherwood, OH 43556 Phone: (419) 899-2145
SC	Florence	City of Florence 0001B - 0002B	450078	E-11, 12, 14	I	F	May 31, 1974 Oct. 31, 1975	Oct. 6, 1978	C. Cooper Tedder, Mayor P. O. Box AA Florence, SC 29501 Phone: (803) 665-3101
VA	Pittsylvania	Pittsylvania County (Uninc. Areas) 0001A-0015A	510113	E-S	I	F	Oct. 6, 1978	Oct. 6, 1978	Theodore Bruning, Co. Admn. Box 246 Chatham, VA 24531 Phone: (804) 432-2041

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AZ	Pinal	City of Eloy 0003A-0006A	040083 A	E-8,11,12	I	F	31 MAY 74	10 OCT 78	Honorable Robert Facio - Mayor - 528 North Main Street - Eloy, AZ 85231 (602) 466-9201
IA	Butler	City of Clarksville 0001A	190336 A	N-8,12	I	F	19 SEP 75	10 OCT 78	Honorable Clarence Schmadeke - Mayor - City Hall - Clarksville, IA 50619 (319) 278-4339
MT	Roosevelt	Town of Bainville 01A	300056 A	N-12	I	F	3 JAN 75	10 OCT 78	Honorable Clarence Romo - Mayor - Town Hall - Bainville, MT 59212 (406) 769-2301
NH	Grafton	Town of Orford 0001B-0004B	330070 B	N-11,12	I	F	26 JUL 77	10 OCT 78	Mr. H. Horton Washburn - Chairman of Selectmen - Town Hall - Orford, NH 03777 (603) 353-4570

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
FL	Levy	Town of Bronson 0001A	120582	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	George Shankle, Mayor P. O. Box 583 Bronson, FL 32621 Phone: (904) 486-2586
FL	Union	Town of Worthington Springs 01	120594A	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	Garnet L. Dukes, Mayor P. O. Box 16 Worthington, FL 32697 Phone: (904) 496-3363
GA	Madison	Municipality of Carlton 01	130476A	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	James Bell, Mayor Carlton, GA 30627 Phone: (404) 797-3455
IL	LaSalle	City of Earlville 01	170950A	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	Francis Yabsley, Mayor 124 West Railroad Street Earlville, IL 60518 Phone: (815) 246-6911
IL	Christian	Village of Palmer 01	170964A	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	Carl Taylor, Vil. Pres. Village Hall Palmer, IL 62566 Phone: (217) 526-3638
IL	Franklin	City of West Frankfort 0001B	170239	E-11, 12, 14	I	F	March 8, 1974 Sept. 19, 1975	Oct. 13, 1978	Jack Woolard, Mayor 108 North Emma West Frankfort, IL 62896 Phone: (618) 932-6562
IN	Montgomery	Montgomery County (Uninc. Areas) 0001A-0006A	180445	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	Sam Boots, Ch. Co. Comm. Courthouse Crawfordsville, IN 47933 Phone: (317) 362-6302
IN	Tippecanoe	City of West Lafayette 0001B	180254	E-8, 11, 12, 14	I	F	Dec. 7, 1973 Aug. 15, 1975	Oct. 13, 1978	Joseph Dienhart, Mayor City Hall 609 West Navajo West Lafayette, IN 47906 Phone: (317) 463-3571
MN	Houston	City of Caledonia 0001A	270712	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	H. A. Beth, Mayor 123 North Winnebago Caledonia, MN 55921 Phone: (507) 724-3630
MN	St. Lewis	City of Hermantown 0001A-0002A	270708	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	Helmer Ruth, Mayor 3161 Maple Grove Road Duluth, MN 55811 Phone: (218) 729-6331
NC	Gaston	Town of Lowell 0001A	370323	N-8, 11, 12, 14	I	F	Aug. 15, 1975	Oct. 13, 1978	Dan Blair, Mayor 101 West 1st Street Lowell, NC 28098 Phone: (704) 824-3518
NC	Montgomery	Montgomery County (Uninc. Areas) 0001A-0007A	370336	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	H. Page McAulay, Ch. Co. Comm. Box 425 Troy, NC 27371 Phone: (919) 974-4602
NC	Moore	Moore County (Uninc. Areas) 0001A-0009A	370164	E-5	I	F	Oct. 13, 1978	Oct. 13, 1978	W. S. Taylor, Co. Admn. Courthouse P. O. Box 905 Carthage, NC 28327 Phone: (919) 947-5800
OH	Licking	Village of Hanover 01	390831A	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	James D. Fullen, Mayor 243 Rocky Fork Drive NE Newark, OH 43055 Phone: (614) 763-3737
OH	Summit	Village of Munroe Falls 0001A	390843	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	Gerald L. Hupp, Mayor 43 Munroe Falls Avenue Munroe Falls, OH 44262 Phone: (216) 688-7491
OH	Clinton	Village of Port William 01	390852A	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	Bob Johnson, Mayor Walnut Street Port William, OH 45164 Phone: (513) 486-4881
SC	Darlington	Town of Society Hill 0001A	450246	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	B. G. Griggs, Mayor P. O. Box 63 Society Hill, SC 29593 Phone: (803) 378-4681
TN	Tipton	Town of Burlison 0001A	470373	N-5	I	F	Oct. 13, 1978	Oct. 13, 1978	Jimmy Burlison, Mayor Rt. 1, Box 385 Burlison, TN 37029 Phone: (901) 476-6412

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IA	Dubuque	City of Durango 0001A	190119 A	E-5	I	F	17 OCT 78	17 OCT 78	Honorable James Schemmel - Mayor - City Hall - Durango, IA 52039 (319) 552-1613
KS	Marion	City of Florence 0001A	200494 A	N-11,12	I	F	6 AUG 76	17 OCT 78	Honorable Barry Linnens - Mayor - City Hall - 100 East Fourth Street - Florence, KS 66851 (316) 878-4381
MT	Powder River	Town of Broadus 018	300058 B	E-8,11,12	I	F	23 AUG 74 26 DEC 75	17 OCT 78	Honorable Ronald Talcott - Mayor - Town Hall - Broadus, MT 59317 (406) 436-2409
TX	Uninc. Area	Val Verde County 0001A-0037A	481187 A	E-5	I	F	17 OCT 78	17 OCT 78	Honorable Sergio Gonzalez, Jr. - County Judge - Office of the Count Judge - County Courthouse - Del Rio, TX 78840 (512) 775-2014

FINAL LIST CODES

1. Conversion to regular program with FIRM (elevations determined).
2. Conversion to regular program with FIRM (no elevations determined).
3. Conversion to regular program with no special flood hazard areas—no FIRM.
4. Conversion to regular program with no special flood hazard areas—no FIRM; rescission of FHBM effective on same date as conversion.
5. Initial FHBM.
6. Revision—Change of elevation; revised FIRM.
7. Revision—Change of zone designation; revised FIRM.
8. Revision—Corporate limit changes.
9. Revision—Drafting corrections; printing errors.
10. Revision—Curvilinear.
11. Revision—Add flood hazard area.
12. Revision—Reduce flood hazard area.
13. Revision—FEDERAL REGISTER omission.
14. Revision—Refunds possible.
15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.

R—Regular Program
E—Emergency Program
N—Not in Program

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30304 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4294]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Cordova, Alaska

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations listed below for selected locations in the city of Cordova, Alaska. 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 Cordova, Alaska.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations the city of Cordova, Alaska, are available for review at Cordova City Hall, Railroad Avenue, Cordova, Alaska.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Cordova, Alaska.

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 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
Orca Inlet	Entire coastline	18
Eyak Lake	Entire coastline	26

(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, 43 FR 7719.)

Issued: September 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30375 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4247]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Hoonah, Alaska

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 Hoonah, Alaska. 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 Hoonah, Alaska.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Hoonah, Alaska, are available for review at the Hoonah City Manager's Office, Front Street, Hoonah, Alaska 99829.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Hoonah, Alaska.

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 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
Port Frederick	Entire coastline	20
Spud Creek	Mouth	20
	Garteeni St	25
	Road crossing approximately 910 ft upstream of Garteeni St.	98

(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, 43 FR 7719).

Issued: September 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30376 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4249]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the city of Desert Hot Springs, Riverside County, Calif.

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 Desert Hot Springs, Calif. 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 Desert Hot Springs, Calif.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Desert Hot Springs, Riverside County, Calif., are available for review at City Hall, 11-711 West Drive, Desert Hot Springs, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Desert Hot Springs, Calif.

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 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
Desert Hot Springs Channel.	Cholla Drive—40 ft*	1,135
	West Drive—25 ft*	1,164
	12th St.—50 ft*	1,242
	Palm Drive—100 ft*	1,323
	Verbena Drive—50 ft*	1,347
Blind Canyon Channel.	16th St.—50 ft**	1,304
	16th St.—50 ft*	1,310
	Avenida Barona Extension—40 ft*	1,375
	Casa Grande Drive—10 ft*.	1,457

* Upstream of centerline.
** Downstream of centerline.

Source of flooding	*Location*	*Depth, feet*
Big Morongo Wash (shallow flooding).	Pierson Blvd	3
	14th Ave	3
Shallow flooding along Ocotillo Rd.	Granada Ave	1
	14th Ave	1
Mission Creek (shallow flooding).	15th Ave	3

(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, 43 FR 7719).

Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30377 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4250]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Evans, Weld County, Colo.

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 Evans, Colo. 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 Evans, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Evans, Weld County, Colo., are available for review at City Hall, 3700 Golden Street, Evans, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Evans, Colo.

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 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
South Platte River.	Downstream corporate limits.	4,642
	U.S. Highway 85—100 ft downstream of centerline.	4,650

(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, 43 FR 7719).

Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30378 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4299]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Fort Lupton, Weld County, Colo.

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 Fort Lupton, Colo. 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 Fort Lupton, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations the city of Fort Lupton, Weld County, Colo., are available for review at City Clerk's Office, City Hall, 330 Park Avenue, Fort Lupton, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Fort Lupton, Colo.

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 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
South Platte River.	Downstream corporate limit.	4,886
	First St.—at centerline...	4,896

(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, 43 FR 7719).

Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30379 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4061]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Larimer County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Larimer County, Colo. 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 Larimer County, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Larimer County, are available for review at Flood Plain Planner's Office, Larimer County Courthouse, 200 West Oak Street, Fort Collins, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Larimer County, Colo.

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 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
Big Thompson River.	Confluence with Lake Estes.	7,475
	County Rd. 63[1]	7,427
	.....do. 63[2]	7,424
	U.S. 34 (5,845 ft downstream of county Rd. 63).	7,368
	Private drive (5,575 ft upstream of confluence with tributary BT-1):	
	Upstream	7,346
	Downstream	7,343
	U.S. 34 (2,125 ft upstream of confluence with tributary BT-1):	
	Upstream	7,313
	Downstream	7,312
	Private drive (940 ft upstream of confluence with tributary BT-1):	
	Upstream	7,304
	Downstream	7,301
	U.S. 34 (650 ft upstream of confluence with tributary BT-3):	
	Upstream	7,109
	Downstream	7,107
	Private drive (550 ft downstream of confluence with tributary BT-4):	
	Upstream	6,997
	Downstream	6,991
	U.S. 35 (1,380 ft upstream of confluence with Rabbit Gulch).	6,957
	U.S. 34 (8,790 ft upstream of confluence with Cedar Creek) (upstream).	5,794
	(downstream)	5,790
	U.S. 34 (6,510 ft upstream of diversion dam at Little Dam).	5,460
	Diversion dam at Little Dam[1].	5,304
	.....do.[2]	5,290
	.....do.[1]	5,242
	.....do.[2]	5,211
	U.S. 34 (5,840 ft downstream of diversion dam below Little Dam) (upstream).	5,153
	(downstream)	5,152
	U.S. 34 (6,660 ft upstream of confluence with Glade Rd. overflow) (upstream).	5,103
	Route 19E[1]	5,005
	.....do.[2]	5,002
	Wilson Ave.[1]	4,994
	.....do.[2]	4,987
	Taft Ave.[1]	4,966
	.....do.[2]	4,964
	1st St.[1]	4,961
	.....do.[2]	4,958
	Colorado & Southern RR.	4,947
	Railroad Ave.[2]	4,941
	Footbridge (400 ft downstream of Railroad Ave.).	4,940
	U.S. 287[1]	4,932
	.....do.[2]	4,930
	St. Louis Ave.[1]	4,921
	.....do.[2]	4,920
	Road 11H[1]	4,908
	.....do.[2]	4,905
	Road 9E[1]	4,880
Glade Rd. overflow.	Glade Rd.	5,073
	U.S. 34	5,054
Tributary BT-1	Big Thompson River[3]	7,292
Tributary BT-2	.....do.[3]	7,286
Dark Gulch	.....do.[3]	7,165
Noel's Draw	.....do.[3]	7,147
Tributary BT-3	.....do.[3]	7,093
Tributary BT-4	.....do.[3]	6,998
Rabbit Gulch	.....do.[3]	6,942
Long Gulch	.....do.[3]	6,914
Quillian Gulch	.....do.[3]	6,487
Cedar Creek	.....do.[3]	5,592
Dickson Gulch	U.S. 34	5,554
	Big Thompson River[3]	5,547
North Fork Big Thompson River.	Fox Creek	7,247
	Miller Fork[3]	6,890
	Bobcat Gulch[3]	6,209
	Big Thompson River[3]	6,150
Bobcat Gulch	North Fork Big Thompson River[3].	6,209
Miller Fork	.....do.[3]	6,890
Devil's Gulch	West Creek[3]	7,328
West Creek	Devil's Gulch[3]	7,328
	North Fork Big Thompson River[3].	7,222
Fall River	Corporate limits (at the upstream crossing of the corporate limits of the town of Estes Park).	7,820
	Corporate limits (at the downstream crossing of the corporate limits of the town of Estes Park 14,050 ft above mouth).	7,767
Fox Creek	North Fork Big Thompson River[3].	7,247
Dry Gulch	Big Thompson River[3]	7,432
Fish Creek	Lakeshore Dr	7,620
Dry Creek	Colorado Highway 287	5,008
	Willox Lane	4,983
	East Vine Dr.	4,945
	Valley Airpark Runway	4,933
	Colorado Highway 14	4,919
Cache La Poudre	Overland Trail Rd.	5,059
	Taft Hill Rd.	5,016
	Shields St.	4,988
	Lincoln Ave.	4,950
	Prospect Rd.	4,894
	Colorado & Southern RR.[1].	4,864
	.....do.[2]	4,858
	County Rd.	4,858
	Interstate 25	4,850
Box Elder Creek	County Rd. 64[1]	5,215
	.....do.[2]	5,214
	Cleveland Ave.[1]	5,201
	.....do.[2]	5,199
	Colorado & Southern RR.	5,190
	County Rd. 67[1]	5,184
	.....do.[2]	5,183
Buckhorn Creek	County Rd. 27[1]	5,303
	.....do.[2]	5,299
	County Rd. 24H[1]	5,141
	.....do.[2]	5,138
	County Rd. 24[1]	5,101
	.....do. 24[2]	5,097
Redstone Creek	County Rd. 26E[1]	5,367
	.....do.[2]	5,364
	County Rd.[1]	5,305
	.....do.[2]	5,301

[1] Upstream.
[2] Downstream.
[3] At the confluence with.

(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, 43 FR 7719).

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30380 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4237]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Coconut Creek, Broward County, Fla.

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 Coconut Creek, Broward County, Fla. 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 Coconut Creek, Broward County, Fla.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Coconut Creek, Broward County, Fla., are available for review at City Hall, 1071 Northwest 45th Ave., Coconut Creek, Fla. 33066.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Coconut Creek, Broward County, Fla.

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 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
Cypress Creek.....	Just south of Northwest 12th St. (State Rd. 814).	10
	Intersection of Sample Rd. and Lyons Rd.	14

(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, 43 FR 7719.)

Issued: October 3, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30381 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4236]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of North Lauderdale, Broward County, Fla.

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 North Lauderdale, Broward County, Fla. 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 North Lauderdale Broward County, Fla.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of North Lauderdale, Broward County, Fla., are available for review at City Hall, 6601 Boulevard of Champions, North Lauderdale, Fla. 33068.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of North Lauderdale, Broward County, Fla.

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. 4001-4123, and 24 CFR 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
West Perimeter Canal.	Intersection of Southwest 81st Ave. and Southwest 5th St.	11
	Intersection of Southwest 82nd Ter. and Southwest 18th Pl.	11
Cypress Creek Canal.	Intersection of Southgate Blvd. and Southwest 79th Ter.	11
Dogwood Canal	Intersection of Kimberly Blvd. and Southwest 67th Ave.	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, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30382 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4302]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Parkland, Broward County, Fla.

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 Parkland, Broward County, Fla. 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 Parkland, Broward County, Fla.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Parkland, Broward County, Fla., are available for review at City Hall, 8383 Holmberg Road, Parkland, Fla. 33067.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Parkland, Broward County, Fla.

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 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
Secondary canal system.	South of Holmberg Rd. and west of Northwest 80th Ter.	13
	North of Holmberg Rd. and west of Control Area Divide.	13
	North of Holmberg Rd. and east of Control Area Divide.	14

(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, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30383 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-3178]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Paulding County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Paulding County, Ga. 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 Paulding County, Ga.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Paulding County, Ga., are available for review at Paulding County Courthouse, Dallas, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Paulding County, Ga.

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 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
Pumpkinvine Creek.	200 ft downstream of confluence with Picketts Mill Creek.	760
	Electric power line approximately 16,450 ft upstream of confluence with West Fork.	795
	State Route 61—approximately 400 ft*.	852
	U.S. Route 278—200 ft*..	879
	Confluence with Little Pumpkinvine Creek.	895
Little Pumpkinvine Creek.	State Route 120—215 ft*	903
	Confluence with Baker Creek.	915
	Unnamed Road—17,300 ft above mouth—170 ft downstream of centerline.	924
West Fork.....	Confluence with Pumpkinvine Creek.	775
Lawrence Creek.....	Old Cartersville Rd.**.....	851
	State Route 92—80 ft*....	891
Sweetwater Creek.	Pine Valley Rd.—200 ft*.	907
	State Route 92**.....	919
	Dorris Rd.—200 ft*.....	939
	Regan Rd.—200 ft*.....	958
	State Route 61**.....	978
Mill Creek	Downstream side of Pine Valley Dam.	906
	Upstream side of Pine Valley Dam.	907
	Pool Rd—200 ft*.....	916
	State Route 92**.....	934
	Jewel Cole Rd.— 180 ft*.	982
	Davis Mill Rd North—80 ft (downstream of centerline).	997
Lick Log Creek	State Route 92**.....	919
	100 ft downstream of Lake Romona Dam outlet.	935
	100 ft upstream of Lake Romona Dam outlet.	941
	Mitchell Rd.—200 ft*.....	946
	Nebo Rd.—30 ft*.....	969
Griffin Creek.....	Confluence with Lawrence Creek.	856
	Unnamed Rd.—4060 ft upstream of confluence with Lawrence Creek— 160 ft*.	881
	State Route 92**.....	897
Tributary 1.....	Confluence with Pumpkinvine Creek.	872
	Downstream side of U.S. Soil Conservation Service Flood Control Structure No. 11.	888
	Upstream side of U.S. Soil Conservation Service Flood Control Structure No. 11.	920
Lane Creek.....	State Route 120—140 ft*	884
Raccoon Creek	Jeep trail—25,910 ft above mouth**.	716
	Electric powerline right-of-way—approxi<mately 46,530 ft above mouth—200 ft*.	756
	High Shoals Church Rd.**.	813
	100 ft upstream of confluence with Cochran Branch.	867
	Southern Railway**.....	900
	Seaboard Coastline RR.—70 ft*.	916
Davis Mill Creek ...	Nebo Rd.—25 ft*.....	944
	Unnamed Rd.—approximately 11,350 ft above mouth**.	968
Powder Springs Creek.	County Line Rd.—200 ft*.	948
	Lake Rd.—90 ft*.....	956
Tributary 5.....	Confluence with Powder Springs Creek.	952
Rakestraw Creek...	County Line Rd.—approximately 140 ft*.	933
	Lake Rd.—approximately 200 ft*.	944
	State Route 92—approximately 64 ft*.	969
Gothards Creek.....	Unnamed road—approximately 19,380 ft above mouth**.	917
	North Flat Rock Rd.—approximately 200 ft*.	933
Tributary 14.....	Gresham Rd.—approximately 25 ft*.	929

*Upstream of centerline.
**At centerline.

(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, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30384 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4410]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Cascade, Dubuque County, Iowa

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 Cascade, Dubuque County, Iowa. 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 Cascade, Dubuque County, Iowa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Cascade are available for review at the City Hall, 320 1st Avenue West, Cascade, Iowa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Cascade, Dubuque County, Iowa.

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 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
North Fork, Maquoketa River.	3,050 ft downstream of U.S. Highway 151.	814
	325 ft downstream of U.S. Highway 151.	815
	Northern corporate limits.	822
	1,200 ft upstream of northern corporate limits.	823

(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, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30385 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4266]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Monticello, Jones County, Iowa

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 Monticello, Jones County, Iowa. 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 Monticello, Jones County, Iowa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Monticello are available for review at the City Hall, 200 East First Street, Monticello, Iowa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Monticello, Jones County, Iowa.

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 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
Maquoketa River..	U.S. Route 151	803
	Northern corporate limit.	805
Kitty Creek	Eastern corporate limit..	803
	First St	805
	State Highway 38	810
	Southern corporate limit.	813
Unnamed stream...	Southern corporate limit.	819
	60 ft upstream of U.S. Highway 151.	823
	Upstream side of Chicago, Milwaukee, St. Paul & Pacific RR.	824
	2,650 ft upstream of Chicago, Milwaukee, St. Paul & Pacific RR.	827

(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, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30386 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4252]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of DeQuincy, Calcasieu Parish, La.

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 DeQuincy, Calcasieu Parish, La. 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 DeQuincy, Calcasieu Parish, La.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of DeQuincy, Calcasieu Parish, La., are available for review at City Hall, P.O. Box 968, DeQuincy, La. 70633.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of DeQuincy, Calcasieu Parish, La.

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 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
Buxton Creek	Just upstream of Page St.	60
	Just downstream of Oak St.	58
	Just downstream of Missouri Pacific RR.	55
Lower West Fork	South Division St. (extended).	61
Upper East Fork	Anise St. (extended)	59
Upper West Fork	Just upstream of North Perkins St.	64
	Just upstream of North Division St.	62
Upper West Fork tributary.	Approximately 260 ft upstream of confluence with Upper West Fork.	65

(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, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30387 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4272]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Fraser, Macomb County, Mich.

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 Fraser, Mich. 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 Fraser, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Fraser, Macomb County, Mich., are available for review at City Hall, 33000 Garfield Street, Fraser, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Fraser, Mich.

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 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
Harrington drain	Garfield Rd	607
	Utica Rd	608
	14 Mile Rd	609
Calahan drain	Cambridge Dr	611
Priest drain	Luxemburg Ave	611
	Fruehauf Ave	613
Sweeney drain	15 Mile Rd	604
	Adolph St	606
	Grettel Rd	608
	Josephine Rd	611
	Masonic Rd	613

(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 dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30388 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4451]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Allenstown, Merrimack County, N.H.

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 Allenstown, Merrimack County, N.H. 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 Allenstown, Merrimack County, N.H.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Allenstown are available for review at the town office, Allenstown, N.H.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Allenstown, Merrimack County, N.H.

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 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
Merrimack River...	Along the length of Merrimack River within Allenstown.	198
Suncook River.....	900 ft upstream from the mouth.	200
	50 ft downstream from Sewer St.	202
	100 ft upstream from Sewer St.	206
	Just downstream of China Mill Dam.	214
	Just upstream of China Mill Dam.	237
	Just downstream of dam (downstream from Main St).	239
	420 ft upstream from Main St. bridge.	262
	70 ft downstream from Webster Dam.	270
	Just upstream of Webster Dam.	284
	Upstream of Pembroke St (State Highway 3).	286
	At the confluence with tributary A.	289
	1,150 ft downstream from Confluence with Boat Meadow Brook.	290
	3,060 ft downstream from dam (downstream of abandoned bridge).	294
	Downstream side of dam at abandoned bridge.	295
	Upstream of abandoned bridge.	302
	State road—State Route 28 bridge.	302
	At the corporate limit between Allenstown and Epsom.	305

(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, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30389 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4354]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Hooksett, Merrimack County, N.H.

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 Hooksett, Merrimack County, N.H. 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 Hooksett, Merrimack County, N.H.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Hooksett are available for review at the town office, 16 Main Street, Hooksett, N.H.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for town of Hooksett, Merrimack County, N.H.

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 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
Merrimack River...	At southern corporate limit.	185
	4,100 ft upstream of confluence of Peters Brook.	190
	Just downstream of Main St.	191
	Just upstream of Hooksett Dam.	194
	At northern corporate limit.	198
Dalton Brook.....	At confluence with Merrimack River.	187
	500 ft upstream of Boston & Maine RR.	188
	1,050 ft upstream of Boston & Maine RR.	218
	2,300 ft upstream of Boston & Maine RR.	236
	3,700 ft upstream of Boston & Maine RR.	249
	1,950 ft downstream of Benton Rd.	264
	300 ft downstream of Benton Rd.	273
	Just upstream of Benton Rd.	295
	Upstream end of U.S. Route 3 culvert.	298
	Downstream end of State Route 28 bypass.	299
	Just upstream of Route 28 bypass culvert.	302
Messer Brook.....	At confluence with Merrimack River.	186
	285 ft downstream of Martins Ferry Rd.	186
	85 ft downstream of Martins Ferry Rd.	189
	50 ft upstream of Martins Ferry Rd.	197
	2,600 ft upstream of Martins Ferry Rd.	221
	850 ft downstream of Trailor Park Rd.	225
	65 ft downstream of Trailor Park Rd.	234
	Just upstream of Trailor Park Rd.	239
	1,225 ft upstream of Trailor Park Rd.	244
	At downstream end of State Route 28 culvert.	265
Peters Brook.....	At confluence with Merrimack River.	189
	Just upstream of Boston & Maine RR.	195
	260 ft upstream of Boston & Maine RR.	195
	Just upstream of Gravel Pit Dam.	212
	80 ft downstream of Construction Products Rd.	214
	80 ft upstream of Construction Products Rd.	223
	1,080 ft upstream of Construction Products Rd.	230
	1,815 ft upstream of Construction Products Rd.	241
	140 ft downstream of Industrial Park Rd. (southernmost crossing).	255
	Just upstream of Industrial Park Rd. (southernmost crossing).	278
	Just upstream of Industrial Park Rd. (northernmost crossing).	282
	60 ft downstream of U.S. Route 3.	289
	Just upstream of U.S. Route 3.	294
	Just upstream of Gravel Pit culvert C (3,350 ft upstream of Industrial Park north crossing).	304

(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, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30390 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4226]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Pembroke, Merrimack County, N.H.

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 Pembroke, Merrimack County, N.H. 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 Pembroke, Merrimack County, N.H.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Pembroke are available for review at the Town Office, Pembroke, N.H.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Pembroke, Merrimack County, N.H.

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 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
Merrimack River...	Confluence of Suncook River.	198
	.....do.....	203
Suncook River.....	Just downstream of sewer trestle.	202
	Just downstream of China Mill Dam.	214
	Just upstream of China Mill Dam.	237
	700 ft upstream of China Mill Dam.	239
	Just upstream of Main St.	262
	800 ft upstream of Main St.	263
	Just downstream of Webster.	273
	Just upstream of Webster Dam.	284
	Just upstream of Pembroke St.	286
	2,600 ft upstream of Pembroke St.	289
	400 ft downstream of State Route 28.	295
	275 ft downstream of State Route 28.	299
	Just upstream of State Route 28.	302
	Southeast corporate limit.	305
Soucook River	1,850 ft upstream of Confluence with Merrimack river.	204
	6,100 ft upstream of Confluence with Merrimack River.	206

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of Pembroke St.	230
	6,100 ft upstream of Pembroke St.	239
	9,250 ft upstream of Pembroke St.	241
	2,900 ft downstream of Sheep Davis Rd.	249
	Just upstream of Sheep Davis Rd.	260
	Just upstream of Pembroke Rd.	271
	3,800 ft downstream of Horse Corner Rd.	287
	Just downstream of Horse Corner Rd.	304
	Just upstream of Pittsfield Rd.	305
	North corporate limit.....	317

(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, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30391 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4225]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Brielle, Monmouth County, N.J.

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 Brielle, Monmouth County, N.J. 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 Brielle, Monmouth County, N.J.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of Brielle, Monmouth County, N.J., are available for review at the Borough Office, Brielle, N.J.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the borough of Brielle, Monmouth County, N.J.

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 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
Manasquan River..	Entire shoreline.....	8

(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, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30392 Filed 10-26-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4149]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Andover, 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 Andover, 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 Andover, Allegany County, N.Y.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Andover, Allegany County, N.Y., are available for review at the Office of the Village Clerk, 4 Main Street, Andover, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village of Andover, 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 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
Dyke Creek	Western corporate limit.	1,638
	Second St. (upstream)	1,654
	State Route 21 (upstream).	1,665
	Eastern corporate limit	1,690
Railroad Brook	Confluence with East Valley Creek.	1,664
	Dam at Andover Pond (downstream).	1,666
	Dam at Andover Pond (upstream).	1,669
	Andover Pond	1,669
East Valley Creek	Western corporate limit.	1,639
	Second St. (extended)	1,653
	Main St. (downstream)	1,659
	Main St. (upstream)	1,660
	Water St. (downstream crossing) (upstream).	1,663
	ConRail crossing approximately 200 ft downstream of State Route 21 crossing (upstream).	1,664
	State Route 21 (upstream).	1,666
	Barney St. (upstream)	1,674
	Water St. (upstream)	1,683
	Northern corporate limit.	1,686

(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, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30393 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4223]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Villiage of Hastings-on-Hudson, Weschester 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 Hastings-on-Hudson, Westchester 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 Hastings-on-Hudson, Westchester County, N.Y.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Hastings-on-Hudson, Westchester County, N.Y., are available for review at the Office of the Village Engineer, Hastings-on-Hudson, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village of Hastings-on-Hudson, Westchester 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 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
Saw Mill River	Farragut Parkway	117
	Farragut Ave	118
	Ravensdale Rd	119
	ConRail access bridge (abandoned).	120
	Upstream corporate limit.	122

(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, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30394 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4050]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Clyde, Sandusky County, Ohio

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 Clyde, Sandusky County, Ohio.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 Clyde, Sandusky County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Clyde, Sandusky County, Ohio, are available for review at the Clyde City Hall, 606 South Church Street, Clyde, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Clyde, Sandusky County, Ohio.

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 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
Raccoon Creek	North corporate limits	647
	U.S. Highway 20	656
	Whirlpool Corp. bldg. (north side).	658
	Factory access road (975 ft upstream from U.S. 20).	661
	ConRail	665
	Mulberry St	667
	Vine St	670
	Maple St	672
	ConRail	673
	Buckeye St	675
	South St	676
	Limerick Rd	694
Buck Creek	North corporate limits	655
	State Rd. 101	673
	ConRail (Penn Central RR.) downstream side.	675
	ConRail (Penn Central RR.) upstream side.	680
	766 ft upstream from ConRail to culvert outlet.	690
	East corporate limits	690

(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, 43 FR 7719).

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30395 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-3780]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Sallisaw, Sequoyah County, Okla.

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 Sallisaw, Sequoyah County, Okla.

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 flood elevations, for the city of Sallisaw, Sequoyah County, Okla.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Sallisaw, Sequoyah County, Oklahoma, are available for review at City Hall, Sallisaw, Oklahoma 74955.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Sallisaw, Sequoyah County, Okla.

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 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
Hog Creek	Upstream of Redwood Ave.	499
Shiloh Creek	Adams St. (extended)	550
Tributary No. 1	Upstream of Interstate 40 West.	511
	Upstream of U.S. Highway 64 bridge.	527
	Redwood Ave. bridge	535
Tributary No. 3	Upstream of Cedar St. bridge.	516
West Branch, Tributary No. 3.	Cedar St	507
Tributary No. 4	Upstream of U.S. Highway 64 (western crossing).	505
	Upstream of U.S. Highway 64 (eastern crossing).	517
	Approximately 400 ft downstream of Redwood Ave.	520
Tributary No. 5	Approximately 100 ft downstream from Dogwood St. bridge.	525
Tributary No. 7	Approximately 100 ft downstream of U.S. Highway 59.	545

(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, 43 FR 7719.)

Issued: September 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30396 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4239]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Turner, Marion 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 Turner, Marion 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 Turner, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Turner,

Marion County, Oreg., are available for review at City Hall, Turner, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Turner, 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 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
Turner bypass	4th St	285
	Southern Pacific RR.*	286
	3rd St	286
Mill Creek	Southern Pacific RR (downstream crossing).	286
	Battle Creek Rd	277
	Southern Pacific RR, (upstream crossing).	280
	Turner-Aumsville Rd.*	287

* Upstream 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, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30397 Filed10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-2647]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINED AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of New Britain, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations listed below for selected locations in the borough of New Britain, 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 New Britain, Bucks County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of New Britain, Bucks County, Pa., are available for review at the Borough Hall, 76 Keeley Avenue, New Britain, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-5581 or Toll-Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the borough of New Britain, 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 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 the 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
Neshaminy Creek	Downstream corporate limits.	232
	South Landis Mill Rd., Extended.	232
	Upstream corporate limits.	233
Cooks Run	Confluence with Neshaminy Creek.	232
	Tamenend Ave. and corporate limits.	244
	Corporate limits and ConRail.	249
	Wooden bridge	259
	Stone bridge	265
	U.S. Route 202 bridge	270
	Corporate limits	277

(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, 43 FR 7719.)

Issued: September 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30398 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4246]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the borough of New Buffalo, Perry County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations listed below for selected locations in the Borough of New Buffalo, Perry 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 New Buffalo, Perry County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of New Buffalo, Perry County, Pa., are available for review at the office of the borough secretary, New Buffalo, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the borough of New Buffalo, Perry 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 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
Susquehanna River.	Downstream corporate limit of the borough of New Buffalo.	367
	Upstream corporate limit of the borough of New Buffalo.	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, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30399 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4286]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Upper Macungie, 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 Upper Macungie, 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 Upper Macungie, Lehigh County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Upper Macungie, Lehigh County, Pa., are available for review at the Upper Macungie Municipal Building, R.D. No. 1, Breinigsville, Pa. 18031.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Upper Macungie, 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 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
Schaefer Run	Downstream corporate limits.	380
	Confluence with Iron Run.	382
	Flower Rd	393
	Brookdale Rd	400
	Confluence with Breinig Run.	401
	Butz Rd	404
Iron Run	Confluence with Schaefer Run.	382
	Foot Bridge (1,000 ft upstream of confluence with Schaefer Run).	384
	Route 222 bridge	385
	Private drive (1,170 ft upstream of Route 222 bridge).	391
Breinig Run	Confluence with Schaefer Run.	401
	Old Route 222	405
	New Route 222	412

(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, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30400 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4110]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the town of Hurt, Pittsylvania County, Va.

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 Hurt, Pittsylvania County, Va. 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 evi-

dence 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 Hurt, Pittsylvania County, Va.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Hurt, Pittsylvania County, Va., are available for review at the Council Chambers, Hurt, Va.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Hurt, Pittsylvania County, Va.

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 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	Confluence with Reed Creek.	535
	U.S. Route 29	537
	Western corporate limits.	538
Reed Creek	Confluence with Roanoke River.	535
	Upstream corporate limits.	535
Sycamore Creek	Confluence with Roanoke River.	537
	Western corporate limits.	537

(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, 43 FR 7719).

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30401 Filed 10-31-78; 8:45 am]

[4210-01-M]

[Docket No. FI-4388]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Spooner, Washburn County, Wis.

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 Spooner, Washburn 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 the city of Spooner are available for review at the City Hall, Spooner, Wis.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Spooner, Washburn County, Wis.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Spooner, Washburn 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 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)
Yellow River	Western corporate limit.	1,049
	1,200 ft upstream from western corporate limit.	1,051
	Just downstream from Fish Hatchery Bridge.	1,053
	50 ft upstream of dam	1,066
	50 ft upstream of U.S. Highway 53.	1,067
	Eastern corporate limits	1,067

(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 the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30402 Filed 10-31-78; 8:45 am]

[4310-31-M]

Title 30—Mineral Resources

CHAPTER II—GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

AGENCY: Department of the Interior, Geological Survey.

ACTION: Temporary suspension of certain rules.

SUMMARY: Enactment of Pub. L. 95-372 necessitates revision of the regulations contained in 30 CFR 250.34. This notice identifies those provisions of 30 CFR 250.34 published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3880) which are temporarily suspended pending full implementation of the provisions of Pub. L. 95-372. The remaining provisions of 30 CFR 250.34

will remain in effect pending the promulgation of revised regulations.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Hillary A. Oden, Associate Chief, Conservation Division, U.S. Geological Survey, National Center (Mail Stop 600), Reston, Va. 22092, 703-860-7524.

AUTHOR: Gerald D. Rhodes, U.S. Geological Survey, Department of the Interior.

ENVIRONMENTAL IMPACT AND REGULATORY ANALYSIS STATEMENTS: The Department of the Interior has determined that the suspension of the effectiveness of sections of 30 CFR 250.34 in the manner described in this notice will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Impact Statement. The Department has also determined that this notice does not require preparation of a regulatory analysis under Executive Order 12044.

BACKGROUND: Existing regulations (30 CFR 250.34) were published as final rules on January 27, 1978 (43 FR 3880). On September 18, 1978, President Carter signed the Outer Continental Shelf Lands Act Amendments of 1978 into law (Pub. L. 95-372, 92 Stat. 629 (amending 43 U.S.C. 1331 et seq.)). In order to implement Pub. L. 95-372 more expeditiously, portions of the regulations in 30 CFR 250.34 are being suspended temporarily. All other provisions of the regulations remain unchanged pending review and revision in accordance with the requirements of Pub. L. 95-372, the Administrative Procedure Act (5 U.S.C. § 553(d), and Executive Order 12044 (43 FR 12661, March 24, 1978).

NOTICE OF SUSPENSION

Until further notice: (1)(a) Those provisions of 30 CFR 250.34-1, 250.34-2, and 250.34-3 which call for the submission of an Environmental Report are suspended with respect to the submission of such reports to support plans of exploration and plans of development and production for oil and gas leases in mature oil and gas producing areas of the Outer Continental Shelf in the Gulf of Mexico, unless the Area Oil and Gas Supervisor requests the submission of a report to enable the Secretary to make required statutory findings under the Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 et seq., as amended, Pub. L. No. 95-372 and the National Environmental Policy Act of 1969, 42 U.S.C. 4332 et seq. (1970).

(b) The Supervisor shall request a report where an affected State has a coastal zone management program approved under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

(2) Those provisions of 30 CFR 250.34-1 and 250.34-3 which call for the submission of plans of exploration and accompanying Environmental Reports to an affected State for review and comment are suspended. Governors of affected States and the individual Area Oil and Gas Supervisors are encouraged to make mutually acceptable arrangements for State review of plans of exploration where State participation can be accomplished within a time frame that will not impede the Supervisor's ability to take final action on the plan of exploration within the 30-day time limit imposed by Pub. L. 95-372. This suspension of the provisions of § 250.34-1 and § 250.34-3 relating to State review of plans of exploration does not affect the right of any State with an approved coastal zone management program to review plans of exploration under the consistency review provisions of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. § 1456, and 15 CFR § 930.

(3) Those provisions of 30 CFR 250.34-2 and 250.34-3 which call for the submission of plans of development and production and accompanying Environmental Reports to affected States for review and comment are suspended with respect to plans of development and production and accompanying Environmental Reports for oil and gas leases in mature oil and gas producing areas of the Gulf of Mexico. The Governor of an affected State that borders the Gulf of Mexico may nullify the effects of this suspension by advising the Area Oil and Gas Supervisor that he wishes to participate in the review of plans of development and production in accordance with section 19 of the OCS Lands Act, as amended by Pub. L. No. 95-372. This suspension of the provisions of § 250.34-2 and § 250.34-3 regarding State review of plans of development and production does not affect the right of any State with an approved coastal zone management program to review plans of development and production under the consistency review provisions of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456, and 15 CFR 930.

Dated: October 26, 1978.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

[FR Doc. 78-30891 Filed 10-31-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[PP 6E1700 and 7E1894/R174; FRL 998-6]

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

Oxytetracycline

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

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of oxytetracycline on peaches. The regulation was requested by the interregional research project No. 4. This rule establishes a maximum permissible level for residues of oxytetracycline on peaches.

EFFECTIVE DATE: Effective on November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-2516.

SUPPLEMENTARY INFORMATION: On August 7, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 34804) in response to pesticide petitions (PP 6E1700 and 7E1894) submitted to the Agency by the interregional research project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Connecticut, Delaware, Georgia, Illinois, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, and South Carolina. The petitions proposed that 40 CFR 180.337 be amended by the establishment of a tolerance for residues of the pesticide chemical oxytetracycline in or on the raw agricultural commodity peaches at 0.1 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.337 should be adopted without change, and it has been deter-

mined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before December 1, 1978, file written objections with the Hearing Clerk, Environmental Protection Agency, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on November 1, 1978, part 180, subpart C, section 180.337 is amended by adding a tolerance for residues of oxytetracycline on peaches at 0.1 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: October 25, 1978.

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

Part 180, subpart C section 180.337 is amended by adding the following new paragraph at the end of the section to read as follows:

§ 180.337 Oxytetracycline; tolerances for residues.

* * * * *

A tolerance of 0.1 part per million is established for residues of the pesticide oxytetracycline in or on the raw agricultural commodity peaches.

[FR Doc. 78-30790 Filed 10-31-78; 8:45 am]

[6560-01-M]

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

[FRL 998-3]

PART 750—PROCEDURES FOR RULEMAKING UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

Interim Procedural Rules for Polychlorinated Biphenyls (PCB's) Ban Exemption

AGENCY: Environmental Protection Agency.

ACTION: Procedures for filing and processing certain PCB exemption petitions under section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA).

SUMMARY: Section 6(e)(3)(B) of TSCA authorizes the Administrator to grant, by rule, exemptions to the bans on the manufacturing, processing, and distribution in commerce of PCB's established pursuant to section 6(e)(3)(A) of TSCA. Since the PCB manufacturing ban will become effective by regulation in early 1979, EPA wishes to inform affected parties now of the procedures which will be followed for the filing and processing of petitions for exemptions from the PCB manufacturing ban imposed by section 6(e)(3)(A). As this notice is strictly procedural, notice and public comment are unnecessary, and it is effective November 1, 1978.

DATES: Petitions for exemption from the 1979 PCB manufacturing ban must be received by December 1, 1978. These procedures are effective on November 1, 1978.

ADDRESS: Send petitions for exemptions to Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, attention: Ms. Joni T. Repasch. Comments on these procedures may be sent to the same address.

FOR FURTHER INFORMATION CONTACT:

John W. Lyon, Office of General Counsel (A-132), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0870.

SUPPLEMENTARY INFORMATION: On June 7, 1978, EPA published a proposed regulation (43 FR 24802) to implement the PCB manufacturing, processing, distribution in commerce, and use bans of section 6(e) of TSCA. EPA stated in the proposed rule at page 24807 that:

> The final rule will describe the requirements for filing [exemption] petitions and for the information to be provided in the petitions.

EPA expects to issue its final rule concerning the PCB bans about January 1, 1979. However, if the regulation is promulgated as proposed, certain manufacturing and importing activities will not be able to continue after the effective date of the regulation unless the Agency grants exemptions for them. These activities include, but are not necessarily limited to, the following: Manufacture of PCB small capacitors, manufacture of PCB equipment (including such items as fluorescent light ballasts, television sets, air conditioners, and microwave ovens), manufacture of chemical substances which contain 50 ppm or greater of PCB's (including pigments and precursors), and importation of PCB's. EPA is issuing these procedures at this time to allow individuals who may be affected by the 1979 manufacturing ban to file exemption petitions at once so that the Agency may act on these petitions as early as possible in 1979.

For purposes of determining whether to file a PCB exemption petition, affected parties should assume that the final regulation will be promulgated as proposed. Only persons affected by the 1979 PCB manufacturing ban should file petitions for exemptions at this time. Persons affected by the July 1, 1979, PCB processing and distribution bans should not file petitions for exemptions until issuance of the final PCB ban regulation. The Agency is delaying processing of petitions for exemptions from the July 1, 1979, bans because the scope of the final PCB ban regulation will determine which persons might wish to seek exemptions from those bans.

These procedural rules require individual submission of petitions by manufacturers affected by the 1979 ban. EPA is imposing this requirement because: (1) The number of such manufacturers is small; and (2) the Agency needs the identity and location of each source of PCB's.

All petitions for exemption from the 1979 PCB manufacturing ban imposed by section 6(e)(3)(A) of TSCA must be received by the Agency within 30 days after publication of this notice. This deadline is being imposed to permit consolidation of all rulemaking on 1979 PCB manufacturing exemptions and the holding of one informal hearing on all petitions covered by the consolidation. In the absence of consolidation, the Agency would not be able to complete action on individual petitions in early 1979.

In determining whether to grant a petition for exemption to the PCB ban, EPA will apply the standards enunciated in section 6(e)(3)(B) of TSCA. Section 6(e)(3)(B) reads in pertinent part as follows:

> * * * the Administrator may grant by rule such an exemption if the Administrator finds that—
>
> (i) An unreasonable risk of injury to health or environment would not result, and
>
> (ii) Good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl.

Although EPA is not issuing a form for petitions, petitions should include the information described in § 750.11(d) of the procedural rules.

Due to the need to grant or deny petitions on an expedited basis as early in 1979 as possible, the Administrator is delegating final Agency authority to grant or deny petitions under section 6(e)(3)(B) of TSCA submitted pursuant to these interim procedures to the Assistant Administrator for Toxic Substances. The Assistant Administrator will rule on petitions subsequent to opportunity for an informal hearing.

The procedural rules to be applicable to section 6(e) exemption proceed-

ings are adapted from the TSCA section 6 procedural rules (40 CFR Part 750, 42 FR 61259, December 2, 1977).

The Agency is aware that many participants at the informal hearing on the proposed PCB ban regulation and at the PCB marking and disposal regulation hearing presented information directly applicable to a PCB exemption rulemaking. In order to expedite Agency action on exemption petitions, participants in the PCB exemption informal hearing are permitted and encouraged to designate testimony from prior Agency informal rulemaking hearings on PCB's under TSCA. The exemption hearing panel is specifically authorized by the procedural rules to reject repetitive testimony submitted earlier to the Agency at a TSCA PCB informal hearing.

These interim procedures may be revised prior to Agency action on PCB exemption petions which concern the July 1, 1979, PCB bans. Comments are therefore invited on any aspect of these exemption procedures.

These rules are issued under authority of section 6(e) of the Toxic Substances Control Act, 15 U.S.C. 2605(e).

Dated: October 25, 1978.

BARBARA BLUM,
Acting Administrator.

Title 40 of the code of Federal Regulations is amended by adding additional sections to part 750 as set forth below:

Sec.
750.10 Applicability.
750.11 Filing of petitions for exemption.
750.12 Consolidation of rulemakings.
750.13 Notice of proposed rulemaking.
750.14 Record.
750.15 Public comments.
750.16 Confidentiality
750.17 Subpenas.
750.18 Participation in informal hearing.
750.19 Conduct of informal hearing.
750.20 Cross-examination.
750.21 Final rule.

AUTHORITY: 15 U.S.C. 2605(e).

§ 750.10 Applicability.

Sections 750.10–750.21 apply to all rulemakings under authority of section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e)(3)(B) with respect to petitions filed pursuant to § 750.11(a) of this part.

§ 750.11 Filing of petitions for exemption.

(a) *Who may file.* Any person seeking an exemption from the PCB manufacturing ban imposed by section 6(e)(3)(A) of TSCA may file a petition for exemption. Petitions must be submitted on an individual basis for each manufacturer or individual affected by the 1979 manufacturing ban.

(b) *Petition filing date.* All petitions for exemptions from the 1979 manufacturing ban under section 6(e)(3)(A) must be received by the hearing clerk by December 1, 1978, which is 30 days after publication of this notice.

(c) *Where to file.* All petitions shall be submitted to the following location: Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, attention: Ms. Joni T. Repasch.

(d) *Content of petition.* Each petition shall contain the following:

(1) Name, address and telephone number of petitioner.

(2) Description of PCB ban exemption requested, including items to be manufactured and nature of manufacturing process—such as smelting.

(3) Location(s) of manufacturing sites requiring exemption.

(4) Length of time requested for exemption (maximum length of exemption is 1 year).

(5) Amount of PCB chemical substance or PCB mixture (by pounds and/or volume) to be manufactured or used during requested exemption period and the manner of release of PCB's into the environment associated with such manufacture or use.

(6) The basis for the petitioner's contention that under section 6(e)(3)(B)(i) of TSCA "an unreasonable risk of injury to health or environment would not result" from the granting of his petition for exemption.

(7) The basis for the petitioner's contention that he meets the criterion of section 6(e)(3)(B)(ii) of TSCA concerning substitutes for PCB's.

(8) Quantification of the reasonably ascertainable economic consequences of denial of the petition for exemption from the 1979 manufacturing ban and an explanation of the manner of computation.

The Agency reserves the right to request further information as to each petition prior to or after publication of the notice of proposed rulemaking required by § 750.13 of these rules.

§ 750.12 Consolidation of rulesmakings.

All petitions received pursuant to § 750.11(a) will be consolidated into one rulemaking with one informal hearing held on all petitions.

§ 750.13 Notice of proposed rulemaking.

Rulemaking for PCB exemptions filed pursuant to § 750.11(a) shall begin with the publication of a notice of proposed rulemaking in the FEDERAL REGISTER. The notice shall state in summary form the required information described in § 750.11(d). Due to time constraints, the notice need not indicate what action EPA proposes to take on the exemption petitions. The notice shall also be subject to § 750.2(c) with the exceptions (1) that the clause "in addition to the material required under paragraph (b)" is eliminated; and (2) that § 750.2(c)(3) is changed to read:

> The due date for public comments, which shall be (1) thirty days after publication of the notice of proposed rulemaking for main comments and (2) one week after the close of the informal hearing for reply comments.

§ 750.14 Record.

Section 750.3 shall be applicable with the exception that the words "§ 750.11(d)" are substituted for "§ 750.2(b)" in § 750.3(a) (1) and (2).

§ 750.15 Public comments.

Section 750.4 shall be applicable with the exception that the time period in § 750.4(b) is shortened to 1 week.

§ 750.16 Confidentiality.

The Agency encourages the submission of nonconfidential information by petitioners and commenters. The Agency does not wish to have unnecessary restrictions on access to the rulemaking record. However, if a petitioner or commenter believes that he can only state his position through the use of information claimed to be confidential, he may submit it. Such information must be separately submitted for the rulemaking record and marked "confidential" by the submitter. For the information claimed to be confidential, the Agency will list only the date and the name and address of the petitioner or commenter in the public file, noting that the petitioner or commenter has requested confidential treatment. The information claimed to be confidential will be placed in a confidential file. A petitioner must also file a nonconfidential petition with a nonconfidential summary of the confidential information to be placed in the public file. Similarly, a commenter must supply a nonconfidential summary of the information claimed to be confidential to be placed in the public file. Any information not marked as confidential will be placed in the public file. Information marked confidential will be treated in accordance with the procedures in part 2, subpart B of this title.

§ 750.17 Subpoenas.

Section 750.5 shall be applicable.

§ 750.18 Participation in informal hearing.

(a) Each person or organization desiring to participate in the informal hearing required by section 6(c)(2)(C) of TSCA shall file a written request to so participate with the record and hearing clerk which shall be received no later than 7 days prior to the scheduled start of the hearing. The hearing shall begin 7 days after the close of the 30-day comment period or as soon thereafter as practicable.

(b) With the exception of the first sentence in § 750.6(a), § 750.6 shall be applicable with the further exception that the time period in § 750.6(b) is shortened to no later than 3 days prior to the start of the hearing.

§ 750.19 Conduct of informal hearing.

Section 750.7 shall be applicable with the addition of the following sentence at the end of § 750.7(c):

Participants shall be allowed to designate testimony from prior EPA informal rulemaking hearings concerning PCB's under TSCA. The hearing panel may reject repetative testimony previously presented at such hearings.

§ 750.20 Cross-examination.

Section 750.8 shall be applicable.

§ 750.21 Final rule.

(a) As soon as feasible after the deadline for submittal of reply comments, the Agency shall issue a final rule. The Agency shall also publish at that time:

(1) A list of all material added to the record (other than public comments and material from the hearing record) which has not previously been listed in a FEDERAL REGISTER document, and

(2) The effective date of the rule.

(b) The Administrator hereby delegates final Agency authority to grant or deny petitions under section 6(e)(3)(B) of TSCA submitted pursuant to § 750.11 of these rules to the Assisitant Administrator for Toxic Substances. The Assistant Administrator shall act on such petitions subsequent to opportunity for an informal hearing pursuant to these rules.

(c) In determining whether to grant an exemption to the PCB ban, the Agency shall apply the two standards enunciated in section 6(e)(3)(B) of TSCA.

[FR Doc. 78-30788 Filed 10-31-78; 8:45 am]

[6820-23-M]

Title 41—Public Contracts and Property Management

CHAPTER 5B—PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION

[PBS P 2800.6A CHGE 2]

PART 5B-3—PROCUREMENT BY NEGOTIATION

Small Purchase Procedures; Correction

AGENCY: General Services Administration.

ACTION. Final rule; correction.

SUMMARY: This document corrects an error in a previously published regulation in the FEDERAL REGISTER regarding dollar limitations for simplified small purchase procedures set forth in Pub. L. 93-356. This regulation is keyed to the earlier document and the error is clearly identified for correction.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Gregory Siracusa, Procurement Policy Review Staff, Office of Program Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405. 202-566-1954.

In FR Doc. 78-23503 appearing at page 37197 in the FEDERAL REGISTER of Tuesday, August 22, 1978, the following changes should be made:

1. On page 37198, § 5B-3.600-70(a), add: (2) Public exigency precludes the use of FSS services.

2. On page 37198, § 5B-3.600-70(b) is corrected in the ninth line to read, "more than $2,000."

3. On page 37198, § 5B-3.603-1(a)(2)(iii)(B) is corrected in the second line to read, "repair over $2,000."

Dated: October 6, 1978.

JAMES B. SHEA, JR.,
Commissioner, PBS.

[FR Doc. 78-30838 Filed 10-31-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1262, Amdt. No. 4]

PART 1033—CAR SERVICE

North Stratford Railroad Corp. Authorized To Operate Over Certain Tracks Owned by the State of New Hampshire

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. (Amendment No. 4 to service order No. 1262).

SUMMARY: Service order No. 1262 authorizes the North Stratford Railroad Corp. to operate a line of railroad between North Stratford, N.H. and Beecher Falls, Vt., owned by the State of New Hampshire. Resumption of operation over this line restores rail service to shippers affected by its abandonment by the Maine Central, its former owner. Amendment No. 4 to service order No. 1262 extends for 1 month the emergency authority granted to the North Stratford Railroad for operation of this line. Service order No. 1262 is published in full in volume 42 of the FEDERAL REGISTER at page 16780.

DATES: Effective 11:59 p.m., October 31, 1978. Expires 11:59 p.m., November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone 202-275-7840, Telex 89-2742.

Decided: October 25, 1978.

Upon further consideration of service order No. 1262 (42 FR 16780, 43637, and 57317, and 43 FR 19047) and good cause appearing therefor:

It is ordered, That § 1033.1262 *North Stratford Railroad Corp. authorized to operate over certain tracks owned by the State of New Hampshire,* service order No. 1262 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) Expiration date. The provisions of this order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 31, 1978.

(49 U.S.C. 1(10-17).)

This amendment 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. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, JR.
Acting Secretary.

[FR Doc. 78-30904 Filed 10-31-78; 8:45 am]

[7035-01-M]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 55 (Sub-No. 26)]

PART 1100—RULES OF PRACTICE

Protest Standards in Motor Carrier Application Proceedings; Special Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The rules adopted in this document establish procedures through which interested persons may petition to intervene in motor carrier application proceedings. Two forms of intervention are recognized: (1) Without leave of the Commission; and (2) With leave of the Commission. Intervention without leave of the Commission will be granted to carriers which (a) Hold any authority conflicting with that sought by applicant, (b) Have the necessary equipment and facilities to provide the needed service, and (c) Have performed service within the scope of the application. Intervention with leave will be granted to any other person who can demonstrate, under established guidelines, a sufficient interest in the outcome of the proceeding or otherwise can make a meaningful contribution to the decisionmaking process.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, telephone: 202-275-7292.

SUPPLEMENTARY INFORMATION: This is the culmination of a three-part public proceeding which was begun with our notice of intention to institute a rulemaking, 42 FR 59885 (1977). Following receipt of public comments, rules were proposed (43 FR 17008 (1978)) and public comment again was invited. More than 100 individuals and organizations have responded. A list which identifies these participants will be made available upon request.

Although the proposed rules have met with greater acceptance, especially among carriers and carrier associations, than did recommendation No. 2 contained in the staff task force report, few affected interests are satisfied entirely. A substantial number of carriers, carrier representatives, and representative associations still oppose this rulemaking. Many of the more specialized carriers believe that the rules, as proposed, should not be made applicable to their operations. Some shippers, shipper organizations, and Federal agencies suggest that the proposed rules are framed too conservatively and, therefore, cannot be expected to accomplish the desired objectives. Finally, one Federal agency would have the Commission virtually ignore private interests involved in motor carrier application proceedings in favor of public interest licensing.

Important issues raised by the comments of participants are treated below. Significant changes in the rules, as proposed, have been made.

Discussion of Material Issues

A. DISCONTINUANCE OR ORAL ARGUMENT

Participants who are dissatisfied with the rules have urged that the proceeding be discontinued or that oral argument be permitted. We believe that the potential benefits of these rules outweigh any implemental drawbacks to which some participants have drawn our attention. There is certainly sufficient public support to warrant pursuit of the proposal. With respect to requests for oral argument, participants have had ample opportunities to comment on the subject matter of this proceeding. It is doubtful that oral argument would add anything of substance to the comments which have been received. Accordingly, this proceeding will not be discontinued and oral argument will not be permitted.

B. LAWFULNESS

Many participants remain convinced that any restrictive rules which we might adopt in this rulemaking proceeding would be unlawful. The focal point of concern is that part of the rules, as proposed, governing intervention with leave. Admittedly, this part could limit participation in adjudicative proceedings by persons who under the old rules could become parties to proceedings notwithstanding their lack of legitimate economic interest. It has been argued, particularly by carriers, that limiting participation in this manner provides insufficient opportunity in law for licensed carriers to press their claims.[1] We disagree.

Neither the Constitution nor the Administrative Procedure Act requires a trial-type hearing in every conceivable case of government impairment[2] of private interests. Compare *Cafeteria & Restaurant Workers Union, Local 473, AFL-CIO* v. *McElroy*, 367 U.S. 886, 894 (1961) with *Fugazy Travel Bureau, Inc.* v. *C.A.B.*, 350 F.2d 733, 738-39 (D.C. Cir. 1965). Whether a particular form of procedure observes "the rudiments of fair play" depends, not upon abstract legal principles, but upon application of those principles to factors such as "(t)he precise nature of the interest that has been adversely affected, the manner in which this was done, the reasons for doing it, the available alternatives to the procedure that was followed, the protection implicit in the office of the functionary whose conduct is challenged, (and) the balance of hurt complained of and good accomplished * * *" *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123, 163 (1951) (Frankfurter, J., concurring). We believe that the rules adopted in this proceeding comport with due process principles and with the requirements of the Administrative Procedure Act.

No private interest[3] will be ignored under these rules. No one will be denied access to the Commission. The rules merely provide guidelines under which in a particular application proceeding the interests of all concerned persons can be readily identified at the threshold level and an informed judgment with respect to which of those interests may be necessary to the decisionmaking process can be reached. In this manner, the scope of the subsequent inquiry can be narrowed to more manageable proportions and, in the face of an ever-increasing caseload, the response of the Commission to the transportation needs of this Nation can be hastened. Similar intervention rules, in use by other regulatory agencies,[4] have received judicial approval. See e.g., *City of San Antonio* v. *C.A.B.*, 374 F. 2d 326, 332-33 (D.C. Cir. 1967).

Participants, especially carriers, also have argued that the rules as proposed would inhibit submission of information necessary to determination of licensing proceedings under applicable statutory criteria,[5] particularly infor-

[1] In this regard, reliance is placed in the Fifth Amendment of the Constitution providing, in part, that no person shall "be deprived of * * * property, without due process of law * * *" and section 5 of the Administrative Procedure Act, 5 U.S.C. § 554(c) providing, in part, that "(t)he agency shall give all interested parties opportunity for—(1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment *when time, the nature of the proceeding, and the public interest permit.*" (emphasis supplied)

[2] Such impairment ostensibly would take the form of diminution in value of operating authorities brought about through increased economic competition.

[3] See note 2, supra. The public interests promoted in this rulemaking generally are those expressed in the National Transportation Policy. 54 Stat. 899 (1940).

[4] See 43 FR 17008, 17010 and n. 11 (1978).

[5] See 49 U.S.C. §§ 307(a) (common carriage) and 309(b) (contract carriage). See also *Pan American Bus Lines Operation*, 1 MCC 190, 203 (1936); and *I.C.C.* v. *J-T Transport Company*, 368 U.S. 81, 87-93 (1961). Other considerations, including competitive factors within an affected marketplace, also enter into motor carrier licensing

Footnotes continued on next page

mation concerning the capabilities of existing carriers and the effect which authorization of a proposed service will have upon their operations. We recognize that relevant information is necessary to the decisionmaking process. *Chemical Leaman Tank Lines, Inc.* v. *United States*, 368 F. Supp. 925, 939 (D. Del. 1973). We do not believe, however, that this information must be developed only in the context of an adversary setting.

Carriers petitioning for intervention with leave will have provided no service either for the supporting shipper or within the scope of the application if transportation services are not to be restricted to the facilities of a particular shipper. Information concerning the capabilities of existing carriers and the effect which authorization of a proposed service would have on their operations can be included in the petition under section 247(1)(2) (ii) and (iii). Because this information is peculiarly within their knowledge, seldom, if ever, will it be subject to refutation.

Where, on the basis of information contained in a petition to intervene with leave, determinative criteria are placed in issue, intervention normally will be granted. In this regard, however, we reject the notion, pressed upon us by several carriers, that the mere ability or willingness of existing carriers to provide a service will serve to place in issue any determinative criterion; to do otherwise would be to ignore the benefits of a healthy competitive environment. This departs somewhat from previously established policy.[6] Our departure is prompted, in large part, by the soundness of the motor carrier industry[7] which, we believe, is able to bear increased competition. This competition in turn, should stimulate creative, responsive transportation services for the shipping public without jeopardizing existing carriers.

C. VERIFICATION

Many participants have questioned the requirement that petitions for intervention with or without leave be verified. This requirement, they argue, is unnecessary and would only increase the costs of filing. These participants suggest that the penalties provided in 18 U.S.C. § 1001[8] for fraud and false statements will prevent abuses of the rules.

In Ex Parte No. 55 (Sub-No. 25), Revision of Application Procedures, 42 FR 62486, 62487 (1977), we determined that the fraud and false statements provisions of the Code obviated the need for verification with respect to applicant's threshold submissions. Reliance upon this statutory provision is equally well placed here. Accordingly, the final rules will be modified to eliminate the verification requirement for petitions to intervene.

D. SOLICITATION

The rules, as proposed, would permit, with certain limitations, automatic intervention for any capable carrier which has solicited business controlled by those supporting the application and which would have involved transportation performed within the scope of the application. Participants have alerted us to the numerous circumstances which could attend consideration of this intervention criterion. The proposed rules would not permit a thoroughgoing assessment of a carrier's solicitation efforts.

To avoid needless confusion and to facilitate consideration of all factors which may have a bearing upon a carrier's interest in this regard, we have concluded that solicitation should not be a ground for automatic intervention; rather, it should form a basis for intervention with leave.

Carriers, otherwise capable of providing service, seeking intervention with leave on the basis of solicitation efforts should include in their petitions a synopsis of all such efforts (including expenses incurred, if any) as well as information concerning their size, the predominant nature of services performed, their area of operations, their financial condition, including operating revenues, and any other information which would tend to shed light on the degree of involvement or interest in the affected marketplace. The fact that a carrier has solicited business, however, will not guarantee intervention. Only where it appears after consideration of all relevant factors that a carrier has manifested a real interest in the involved traffic will intervention on the basis of solicitation be permitted.

As a general rule, we believe that interest can be demonstrated in particular traffic or business only where solicitation is direct (through personal contact, by telephone or in person) and recurring. We recognize that with certain types of carriers, direct solicitation is not practical and the industry practice is to employ general advertising. For example, motor bus carriers, household goods carriers, and others similarly situated which hold themselves out to the general public will engage principally in less direct forms of solicitations, such as newspaper advertisements, brochures, yellow pages, television and radio commercials. In evaluating petitions to intervene based on solicitation, this circumstance will be taken into account.

E. DOCUMENTATION

Many participants have expressed concern that we will prescribe the manner in which solicitation efforts or traffic handled must be documented in petitions to intervene. We have been reminded that there are no uniform recordkeeping standards in this regard. Under the circumstances, certain participants argue that imposition of documentation requirements for intervention purposes can only complicate procedures and result in unfairness to some classes of carriers, particularly smaller carriers.

We agree with the suggestion of many participants that persons should be allowed some latitude in the manner in which they document their particular interest. We also believe that documentation need not accompany petitions to intervene. We will require only that petitions seeking intervention on the basis of some form of participatory interest contain a clear concise account of traffic handled or solicitation efforts and that petitioners be prepared to substantiate through documentation (generally records kept in the normal course of business) at hearing if one is held.[9] Sample petitions are attached as appendices to this document.

F. "(1) PERFORMED SERVICE WITHIN THE SCOPE OF THE APPLICATION * * *"

A proposed requirement for automatic intervention is that a carrier must have "performed service within the scope of the application." Several participants seek clarification of the quoted material; others have argued that they could not be sure whether or not they have performed service within the scope of the application

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Footnotes continued from last page

proceedings. See generally *Trans-American Van Service, Inc.* v. *United States*, 421 F. Supp. 308 (N.D. Tex. 1976).

[6] For example, in *C. & D. Oil Co. Contract Carrier Application*, 1 MCC 329, 332 (1936), the Commission determined that "existing motor carriers should normally be accorded the right to transport all traffic which they can handle adequately, efficiently, and economically in the territories served by them." This precept was established, however, *"in order to foster sound economic conditions in the motor carrier industry,"* (*Id.*, emphasis supplied) and we find that it has little, if any, relevancy today.

[7] See 42 FR 59985, 59986 and n. 11 (1977).

[8] 18 U.S.C. § 1001 provides: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

[9] Petitioners seeking intervention without leave automatically will become parties to the proceeding unless, upon motion, it is determined that the requisite interest has not been demonstrated, in which case the petition to invervene without leave will be disallowed.

unless they know the identity of the supporting shipper.[10]

To have "performed service within the scope of the application," a carrier must have transported any of the commodities named in the application from and to or between any points for which authority is sought. There generally will be no limitations with respect to the amount of traffic handled or the scope or frequency of involvement. This interpretation also would apply to petitions seeking automatic intervention by carriers in competing modes of surface transportation, e.g., rail and water.

The term "performed service within the scope of the application" should be clarified to reflect the distinction between motor common and contract carriage. In recognition of the distinction, no automatic intervention in proceedings involving one type of carriage (common or contract) will be permitted by a carrier not offering the same type of service. Carriers offering a different type of service will be allowed to intervene only with leave of the Commission. This clarification is consistent with the Act and should promote development of useful information at the intervention petition stage.

Current application decisional notices published in the FEDERAL REGISTER generally do not provide the identity of a supporting shipper unless the proposed operation is restricted to shipper's facility or contract carriage is involved. It never was intended, however, that petitioners should have to guess whether or not they have provided service for, or solicited the traffic of, a particular shipper when no supporting shipper is identified in the application as published. The rules will be clarified through the addition of the following qualifying provision: "where the service is not limited to the facilities of particular shippers [petitioner must show that service has been performed] from and to or between any of the involved points." Similar language will be included in the section providing for intervention with leave on the basis of solicitation.

G. FIELDS OF SERVICE

Proposed rule 247(k)(2)(ii) provides in part that "[w]here it reasonably appears from the application and the accompanying notice that the applicant is engaged in a particular field of service (such as the transportation of bulk commodities, household goods, or commodities requiring refrigerated equipment), the documentation accompanying a protest must demonstrate prior service or solicitation in the fields of service covered by the application, whether or not the application contains negative restrictions or other limitations on the service proposed." Participants have expressed concern that this measure may be procedurally deficient. They argue that since caption summaries are not required to contain information relative to fields of service, specialized carriers would be hard pressed to protect their interests. Although we believe that some concerns in this regard have been overstated, we acknowledge that retention of the "fields of service" provision could be counterproductive. Accordingly, that provision will not be included in the final rules.

Petitioners seeking leave to intervene will be expected to show only an apparent ability to perform a proposed operation. Thus, if a proposed operation contemplates expressly (in the published caption summary) a transportation service to be performed in dump vehicles, petitioner would have to show that it operates dump vehicles. If an application contains no acceptable equipment or service restrictions or limitations on the proposed operation, and the operation does not involve transportation services which obviously would require special equipment (e.g., frozen foods), no special showing will have to be made by petitioner.

H. CONTRACT CARRIAGE

Although contract carriage differs from common carriage in terms of the criteria used to evaluate a service proposal, we believe that competing interests, in the context of contract carrier applications, can be shown and fairly evaluated at the threshold level. All information necessary for this evaluation, including the "distinct needs," [11] if any, of a supporting shipper can be presented in the initial submission of applicants and prospective intervenors. Where, on the basis of the information submitted, determinative criteria are placed in issue, intervention normally will be granted. We emphasize again that the mere ability or willingness of existing carriers to provide a service, or even to meet a distinct need, will not place in issue any determinative criterion.

I. EXTRAORDINARY CIRCUMSTANCES

We invited comment on whether special provision should be made for intervention with leave by persons who desire either (1) to protect overhead traffic or (2) to protect their interests through imposition of a restriction normally not accepted by the Commission. The response to this invitation generally has been negative. It has been argued that recognition of extraordinary circumstances would unnecessarily complicate and delay procedures, and that the rules contain a satisfactory solution. See subsection (2)(iv) of rule 247(1) providing for "[t]he availability of other means by which the petitioner's interests might be protected." Accordingly, no special provision will be made in these matters.

J. COMPETITION

Several participants believe that implementation of the rules, as proposed, would impede our ability to assess the competitive impact of an applicant's proposed service in the affected marketplace. They argue that the mere existence of capable carriers in the territory sought to be served by an applicant has a bearing upon competition. To the extent that the rules would preclude participation in application proceedings by any existing carrier capable of providing service, these participants contend that competition within an affected marketplace cannot be evaluated fairly.

Under the rules adopted here, no carrier or other person will be prevented from petitioning to intervene with leave. Information concerning competitive conditions within an affected marketplace can be developed in a petition under subsection (vi) of special rule 247(1)(2). Based upon information contained in a petition, in the application and in any other available material, the need to permit a person to intervene for the purpose of further developing the record with respect to the competitive impact of a proposed service can be evaluated at the threshold level. If it appears, on the basis of information supplied, that competitive conditions within an affected marketplace warrant further examination, intervention may be permitted with respect to that issue.

K. APPEALS

Section 17 of the Interstate Commerce Act, when read together with section 8 of the Administrative Procedure Act, would appear to require opportunity for appeal from an adverse intervention ruling. An accelerated appeal procedure will be included in the rules adopted here. An immediate appeal from an intervention decision may be taken within 10 days of the service date of the decision. Any applicant or prospective intervenor, if it chooses, may file and serve a response to an appeal within 5 days of the date on which the appeal was served. Briefs accompanying appeals or responses should not exceed 10 pages. Deferring applicant's appeal until a decision is made on the merits of the application was considered. However, inasmuch as deferring such action did not obtain the votes of a majority of the Commission, the accelerated appeal procedure

[10] The same argument also would apply to petitions seeking intervention on the basis of solicitation.

[11] Information concerning "distinct needs" is included in revised form OP-OR-9.

will be available to any applicant or prospective intervenor.

L. APPLICABILITY

These rules will apply to carriers, including rail carriers,[12] and all other persons that wish to participate in any application proceeding for permanent motor carrier authority. It has been suggested that the rules be made inapplicable to certain specialized carriers, non-carrier organizations, and carriers which provide interline or intermodal services. We believe that the rules are sufficiently flexible to accommodate any interests, including those mentioned above.

M. ADMINISTRATIVE CONSIDERATIONS

We have received a substantial response to our invitation (1) to comment on the costs and benefits of adopting these protest standards, and (2) to suggest ways in which to minimize the costs of participation in motor carrier application proceedings. Several suggestions for reducing the cost to petition for intervention (e.g., eliminate the verification requirement) have been incorporated into the final rules. The cost to the Commission of implementing the rules cannot be determined but we do not anticipate a significant increase over current costs. We believe that the benefits to be derived from these rules will outweigh any additional costs associated with their implementation. In any event, we intend to monitor the rules and to report our findings publicly.

N. ENVIRONMENTAL CONSIDERATIONS

Few comments addressed our preliminary environmental impact assessment. The quality of the human environment will not be affected significantly by this action. Environmental policy considerations will continue to be a factor in individual motor carrier application proceedings.

O. FINAL RULES

§ 1100.247 [Amended]

1. Special rule 247 of the Commission's rules of practice (49 CFR 1100.247) is amended in paragraph (i) by adding to the end of that paragraph the words: "or paragraph (l) of this section".

[12] It has been claimed that, unlike regulated motor carriers, railroads do not operate pursuant to Commission issued certificates and permits and that, read literally, the rules would preclude automatic intervention by rail carriers since none holds "operating authority." Although we believe that only a strained interpretation of the rules, when read as a whole, could lead to such a conclusion, the "operating authority" requirement for automatic intervention will be rephrased to read "(1)(i) Is authorized to perform any of the service which the applicant seeks authority to perform * * *".

2. Section 1100.247 is also amended by adding new paragraphs (e)(9), (k), (l), and (m) to read as follows:

§ 1100.247 Rules governing applications by motor carriers of property or passengers and brokers under sections 206 (except section 206(a)(6) relating to certificates of registration), 209 and 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Act. (Rule 247).

* * * * *

(e) * * *

(9) In motor carrier application proceedings, the provisions of paragraph (k) of this section, to the extent they are inconsistent with this paragraph, shall apply.

* * * * *

(k) *Intervention without leave in motor carrier application proceedings.* Intervention without leave will be allowed in motor carrier application proceedings by persons supporting the application and by a carrier that files, within 30 days of the date of publication of the application in the FEDERAL REGISTER, a petition showing that it

(1) Is authorized to perform any of the service which the applicant seeks authority to perform, and

(2) Has the necessary equipment and facilities for performing that service; and

(3) Has performed a service within the scope of the application either (i) for those supporting the application, or, (ii) where the service is not limited to the facilities of particular shippers, from and to or between any of the involved points.

(4) Except to the extent that they are inconsistent with the provisions of this subsection, the provisions of paragraph (e) of this section apply to protests filed under this section.

(l) *Intervention with leave in motor carrier application proceedings.* (1) Persons unable to intervene in a motor carrier application proceeding under paragraph (k) of this section may file a petition for leave to intervene under this subsection within 30 days of the date of publication of the application in the FEDERAL REGISTER. A party to a proceeding may file a response to a petition to intervene with leave within 15 days after the petition is filed.

(2) In determining whether to permit intervention with leave the Commission will consider, among other factors—

(i) The nature, if any, of the petitioner's right under a statute to be made a party.

(ii) The nature and extent of the property, financial, or other interest of the petitioner, including petitioner's service capabilities and the extent, if any, to which petitioner (A) has solicited the traffic or business of those supporting the application, or, (B) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace.

(iii) The effect of the decision which may be rendered upon the petitioner's interest.

(iv) The availability of other means by which the petitioner's interests might be protected.

(v) The extent to which the petitioner's interest will be represented by other parties.

(vi) The extent to which the petitioner's participation may reasonably be expected to assist in the development of a sound record.

(vii) The extent to which participation by the petitioner would broaden the issues or delay the proceeding.

(3) In granting a petition to intervene with leave, the Commission may limit the scope of the petitioner's participation in the proceeding.

(m) *Appeals.* An immediate administrative appeal of an intervention decision in motor carrier application proceedings may be taken to a division of the Commission or other appropriately designated appellate decisionmaker within 10 days of the service date of the decision. The appeal shall be asserted by the filing with the Commission and serving upon opposing parties a notice of appeal and accompanying supporting brief which should not exceed 10 typewritten pages. Any applicant or prospective intervenor may file and serve a response, which should not exceed 10 typewritten pages, in support of or in opposition to the appeal within 5 days after service of the appeal.

This document is promulgated under the authority contained in 49 U.S.C. 304 and 5 U.S.C. 553 and 559 and was adopted formally at a general session of the Interstate Commerce Commission held at its offices in Washington, D.C., on October 10, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. (Chairman O'Neal, Commissioners Brown and Stafford would have deferred applicant's right of appeal from an intervention decision until a decision is made on the merits of the application; and Commissioner Stafford voted

against portions of the rules adopted and has filed a separate expression.)

H. G. HOMME, JR.,
Acting Secretary.

COMMISSIONER STAFFORD (DISSENTING)

This decision represents the most significant step so far in the Commission's current march toward deregulation. The major impact of this new rule is the intentional exclusion from our licensing proceedings of carriers who stand to suffer by our licensing. It is bad enough if these carriers lose out after being allowed to participate; here, the majority is saying these carriers should not even be heard.

I am also disturbed at the much broadened concept of "intervention with leave." If a person has a legitimate interest in a particular case, it should not be left up to some bureaucrat to determine if the person has enough of an interest to warrant intervention.

The rules adopted here have virtually no relation to the reasons why the proceeding was instituted. The purpose of staff task force recommendation No. 2 (from which this proceeding derived) was to eliminate frivolous protests and thus to allow a larger number of cases to proceed as unopposed. A protest is frivolous when it is interposed merely for purposes of delay, when the carrier submitting it has neither the desire nor the ability to perform the service, and when the grant of authority would have no adverse effect on the carrier. A protest that does not fall within these criteria is not frivolous, and a protesting carrier should have the right to participate in a case affecting its interest and have that interest adjudicated on the merits.

The final rules go well beyond the elimination of frivolous protests. They clearly attempt to keep out of the proceeding all potential opposition, except those carriers on whom the impact obviously would be severe.

It is absurd to prohibit protests of contract carrier applications by common carriers or of common carrier applications by contract carriers. To say that common and contract carrier operations are different is to elevate form over substance. For years, there has been tacit recognition that many irregular route common carrier grants of authority were not materially different from grants of contract carrier authority. The majority does not explain what differences between common and contract carriage influenced their view that these two types of services are, in effect, mutally exclusive. They have not done so, in my view, because they are unable to.

The result of this major policy change will be virtually automatic grants of authority in every contract carrier application proceeding. We all know very well that a contract carrier almost never protests the application of another contract carrier.

Discretionary intervention is not enough to protect the legitimate interests of existing carriers who are already serving the shippers or soliciting the traffic.

The final rules say that solicitation of the traffic will not be grounds for automatic intervention. I can think of no clearer way for a carrier to express its interest in the traffic. No carrier that has actively solicited the traffic should be denied the right to participate.

Moreover, when it comes to discretionary intervention, the majority states that direct, recurring personal solicitation shall be the primary consideration in allowing participation. This represents another example of misplaced emphasis. This policy favors the carrier with a large sales staff over the carrier with efficient service and good reputation. I would not place such heavy emphasis on personal visits.

The number of truly frivolous protests is relatively few. Moreover, their impact, in terms of the time and effort involved in disposing of them, is significant only in cases that otherwise would be unopposed. In a proceeding where other legitimate protests are filed, the disposition of frivolous protests is a simple matter that takes little additional time, expense, or effort.

The additional and detailed material that we proposed to ask the parties to submit seems all out of proportion to the problem. Although frivolous protests are not especially prevalent, these proposals envision the submission of detailed, prehearing pleadings in every licensing case that comes before us. The proposed standards will create a mountain of paperwork from which the Office of Proceedings might never emerge. Certainly they will delay, rather than expedite, the majority of cases. The decisional process on interventions and appeals will undoubtedly result in more dilatory pleadings, not less. Instead of reducing the time and expenses for both the Commission and the parties, we are increasing both the workload and the costs of participating. Under existing procedures, the Office of Proceedings has developed the expertise to review protests and resolve them with little difficulty.

Finally, although it is primarily an internal matter, I do feel it is necessary to comment on the impact of this rule on the Section of Operating Rights in the Office of Proceedings. This section will be charged with implementing the new rule, and handling all the pleadings attendant thereto. At the same time its caseload continues to be at or near record levels. No increase in staff is projected for the section. Functionally, it will be impossible to handle all the new procedural matters and still maintain the high output the section has produced in the past few years. I predict a significant increase in backlog and case processing time.

While instituted to achieve a reasonable policy objective, this rulemaking has resulted in a rule that far exceeds its initial purpose. The rule is of questionable legality in the limits it places on participation. Finally, it will cause increased paperwork, costs, delay, and backlog.

APPENDIX I

(SAMPLE)

PETITION TO INTERVENE WITHOUT LEAVE

in the proceeding in

No. MC-000000 (Sub-No. 0)

XYZ HAULERS, INC.

Petitioner's identity: ABC TRANSIT, P.O. Box 0, Anyplace, NC 00000.

Petitioner's representative: John Doe, P.O. Box 0, Anyplace, NC 00000, phone: 000-000-0000.

Petitioner's interest in the title common carrier application proceeding (which involves transportation of frozen foods from the facilities of Freezer, Inc., at Memphis, TN to points in Georgia) is as follows:

(1) Petitioner is authorized to perform (in whole or part) services which applicant seeks authority to perform (a copy of petitioner's conflicting certificate is attached).

(2) Petitioner maintains a full service terminal at Memphis, TN, and operates 100 tractors and 200 vans equipped with mechanical refrigeration.

(3) Petitioner has provided service for Freezer, Inc. from its Memphis facility as follows—

April 1978: 100,000 lbs (30 shipments) to Albany, Macon, and Athens, GA, producing revenues of $7,100.

May 1978: 200,000 lbs (40 shipments to Atlanta, GA, producing revenues of $13,300.

Petitioner's overall operating revenue during April and May 1978 was $59,000.

Based upon the foregoing, petitioner seeks automatic intervention in the title proceeding.

/s/ John Doe
JOHN DOE,
Attorney for petitioner.

A copy of this petition was mailed to applicant's representative by first class mail on the —— day of ————, 1978.

/s/ John Doe
JOHN DOE,
Attorney for petitioner.

APPENDIX II

(SAMPLE)

PETITION TO INTERVENE WITHOUT LEAVE

in the proceeding in

No. MC-000000 (Sub-No. 0)

XYZ HAULERS, INC.

Petitioner's identity: ABC TRANSIT, P.O. Box 0, Anyplace, NC 00000.
Petitioner's representative: John Doe, P.O. Box 0, Anyplace, NC 00000, phone: 000-000-0000.

Petitioner's interest in the title common carrier application proceeding (which involves transportation of frozen foods from Memphis, TN, to points in Georgia) is as follows (note here that shipper has not been identified in the published caption summary):

(1) Petitioner is authorized to perform (in whole or part) services which applicant seeks authority to perform (a copy of petitioner's conflicting certificate is attached).

(2) Petitioner maintains a full service terminal at Memphis, TN, and operates 100 tractors and 200 vans equipped with mechanical refrigeration.

(3) Although petitioner has handled no frozen food traffic originating in the Memphis area for many months, it has extensively solicited such traffic. Examples of solicitation efforts (involving offers to transport frozen foods from Memphis to authorized points of service, including points in Georgia) follow:

(a) Personal meetings with representatives of Quick Freeze, Redi Froze, and Cold Cuts, all Memphis frozen food distributors, on July 1, 1978, and again on July 25, 1978.

(b) Telephone conversations with representatives of the above-named firms on July 15, 1978, and August 8, 1978.

(c) Advertisement (a copy of which is attached) appearing in Memphis Journal of Traffic and Trade in the July 1978 issue. (Cost $195).

During the period January 1, 1978 through August 1978, petitioner estimates that it has invested more than $400 in the solicitation of frozen food traffic from Memphis to authorized points including Georgia.

(4) Other pertinent information:

Petitioner is a small carrier specializing in the transportation of commodities which require refrigeration in transit. It operates throughout the southeastern United States. In 1977, gross operating revenues were $4.2 million of which $400,000 was reported by the Memphis terminal. Petitioner has been trying unsuccessfully to attract business in the Memphis marketplace since January 1978 when the shipper for which it had been performing a service for 6 months became insolvent. If petitioner is unable to attract business in the near future, it will be forced to close its Memphis terminal upon which many small shippers in the area have come to rely.

Based upon the foregoing, petitioner seeks intervention with leave in the title proceeding.

/s/ John Doe
JOHN DOE
Attorney for petitioner.

A copy of this petition was mailed to applicant's representative by first class mail on the —— day of ————, 1978.

/s/ John Doe
JOHN DOE
Attorney for petitioner.

APPENDIX III

(SAMPLE)

PETITION TO INTERVENE WITH LEAVE *

in the proceeding in

No. MC-000000 (Sub-No. 0)

XYZ HAULERS, INC.

Petitioner's identity: ABC TRANSIT, P.O. Box 0, Anyplace, NC 00000.
Petitioner's representative: John Doe, P.O. Box 0, Anyplace, NC 00000, phone: 000-000-0000.

Petitioner's interest in the title contract carrier application proceeding [which involves transportation of frozen foods from Memphis, TN to points in Georgia under continuing contract with Freezer, Inc., of Memphis] is as follows:

(1) Petitioner is authorized to perform (in whole or part) services which applicant seeks authority to perform (a copy of petitioner's conflicting certificate is attached).

(2) Petitioner maintains a full service terminal at Memphis, TN, one block from the shipper's facility, and operates 100 tractors and 200 vans equipped with mechanical refrigeration.

(3) Petitioner believes that it has handled the involved traffic but shipper (then OJ Frozen Foods, Inc.) since has either changed its name or sold the business. Petitioner provided service for OJ Frozen Foods, Inc., from Memphis to points in Georgia as follows:

September 1977: 50,000 lbs (10 shipments) to Albany producing revenues of $1950.
October 1977: 100,000 lbs (15 shipments) to Atlanta producing revenue of $3710.

(4) Petitioner also has solicited shipper's frozen food traffic from Memphis to authorized points of service, including Georgia. Examples of these solicitation efforts include:

(a) Personal meetings with representatives of shipper on June 30, 1978 and July 10 and 11, 1978.

(b) Letters (copies of which are attached) to representatives of shipper alerting them to petitioner's service capabilities.

(5) The proximity of petitioner's terminal coupled with the constant availability of equipment there would enable petitioner to meet shipper's need for a "house carrier."

(6) Other pertinent information:

Petitioner is a small carrier specializing in the transportation of commodities which require refrigeration in transit. It operates throughout the southeastern United States. In 1977, gross operating revenues were $4.2 million of which $400,000 was reported by the Memphis terminal. Many carriers are competing for frozen food traffic in the Memphis area. It is petitioner's belief that there is excess capacity. During the first six months of 1978, petitioner's Memphis terminal grossed only $50,000 in revenues. If petitioner is unable to attract business in the near future, it wil be forced to close its Memphis terminal upon which many small shipper's in the area have come to rely.

Based upon the foregoing, petitioner seeks intervention with leave in the title proceeding.

/s/ John Doe
JOHN DOE,
Attorney for petitioner.

A copy of this petition was mailed to applicant's representative by first class mail on the —— day of ————, 1978.

/s/ John Doe
JOHN DOE,
Attorney for petitioner.

* This format also could be employed where petitioner is uncertain whether to apply for intervention with or without leave. The petition, in such case, should be entitled "Petition to intervene with or without leave."

[FR Doc. 78-30905 Filed 10-31-78; 8:45 am]

proposed rules

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

[6210-01-M]

FEDERAL RESERVE SYSTEM

[12 CFR Part 208]

[Docket No. R-0142]

MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Recordkeeping and Confirmation Requirements for Certain Securities Transactions Effected by State Member Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Republication of proposed rule.

SUMMARY: On January 31, 1978, the Board of Governors of the Federal Reserve System published for comment proposed amendments ot its regulation H (12 CFR 208) to require that State member banks that effect certain securities transactions for customers provide confirmations of and maintain records with respect to such transactions (43 FR 5006). Commentators were also invited to consider whether and to what extent regulations should be promulgated concerning: (1) Best execution of securities transactions and (2) competency and testing requirements for bank employees. The comment period was extended (43 FR 12720) and ended May 1, 1978. Similar proposals were also published for comment by the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

A substantial number of critical, but useful, comments were received by the Board expressing significant concerns regarding the feasibility of the proposed amendments. As a result, the Board determined to revise the proposed amendments to its regulation H in light of the comments received and to republish the amendments for additional comment. Information setting forth estimated costs of implementation of the proposed amendment is also being requested. The Board has determined to take no further action at this time regarding the promulgation of regulations concerning best execution of securities transactions, and competency and testing requirements of bank employees.

DATE: Comments must be received on or before December 18, 1978.

ADDRESS: Secretary of the Board of Governors of the Federal Reserve System, 20th & Constitution Avenue NW., Washington, D.C. 20551. All material submitted should be in writing and should refer to docket No. R-0142. Such material will be available for public inspection during the regular hours of the Office of the Secretary at the above address.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, 202-452-2782, or Robert A. Wallgren, Chief, Trust Activities Program, 202-452-2717, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The original proposal to amend regulation H has been substantially revised as a result of the numerous comments which were received. The most significant revision of the amendment as originally proposed pertains to the confirmation requirements. However, substantial revisions to the recordkeeping portion of the proposed amendments have also been made. The following is a summary of the significant revisions which are proposed.

With respect to the proposed recordkeeping requirements, the Board has taken into consideration the many comments which have been received expressing the concern that these requirements, as proposed, would be burdensome and costly due to: (1) The length of time for which the required records would be kept; and (2) the variety of records which would be required to be maintained. In order to reduce the volume of records which a State member bank would be required to maintain, the Board has proposed to decrease the number of years required for retention. Although the original proposal was silent with respect to the number of years for which copies of confirmations must be maintained, it is now proposed that the number of years for which all required records, including copies of confirmations, must be maintained be reduced from 6 years to 3 years.

In further response to these concerns, and in consideration of those comments expressing the view that the recordkeeping requirements should be less onerous for smaller banks, the Board has proposed to exempt from certain of the recordkeeping requirements those banks which effect an average of fewer than 200 securities transactions per year. Thus, such banks that effect a nominal number of securities transactions would be required, pursuant to these proposed regulations, to maintain significantly fewer records.

In addition to these revisions to the recordkeeping requirements, several other significant changes have been proposed with respect to recordkeeping. The revised proposal would delete the requirement for maintaining a chronological record of all receipts and deliveries of securities and of receipts and disbursements of cash. However, this information would still be required to be maintained in account records of customers. The regulations as revised would also change the requirement for including on the order ticket the time the order was executed to the time the order was placed with the broker/dealer, where a broker/dealer has been utilized. Where a broker/dealer is not used, the time of execution would still be required. A further proposed revision would permit banks to maintain records of only those broker/dealers for whom the bank has exercised discretion in selecting the broker/dealer to effect a particular securities transaction for its customers, rather than to require that a record be kept of all broker/dealers used by the bank to effect such transactions. In addition, and in connection with this revision, a newly proposed provision would also require that a record be kept of the amount of commissions paid or allocated to each such broker during the calendar year.

With respect to the proposed confirmation requirements there have been two major revisions. The first pertains to the length of time within which a member bank must provide a customer with a confirmation of a securities transaction which has been effected for that customer. As revised, the proposal would require that where a broker/dealer is utilized, the confirmation would be furnished within 5 business days from the date the bank receives the broker/dealer confirmation, rather than 5 business days from the date of the transaction. However, where there is no broker/dealer utilized, the confirmation would be furnished to the customer within 5 busi-

ness days from the date of the transaction. The second major revision to the confirmation requirements substantially diminishes the number of confirmations which member banks would be required to furnish. The revised proposal reflects the concern, as expressed by many of the commentators, that the customer should have the right to request not to receive the confirmation. Thus, in those cases where the bank does not exercise investment discretion, the bank and the customer can agree to alternative arrangements. In those cases where the bank exercises investment discretion, in other than an agency capacity, no confirmation would be required except upon request. The confirmation requirements have been similarly liberalized for other types of accounts. It should also be noted that as an alternative to furnishing a separate bank confirmation containing certain specified information, the revised proposal provides that the bank may furnish the customer with a copy of the broker/dealer confirmation supplemented by certain additional information.

In addition to the changes which have been made with respect to the recordkeeping and confirmation requirements, a new section has been added to the regulation which contains the exceptions from requirements of this proposal. Two of the exceptions contained in this section are newly proposed by this revised proposal. These new exceptions represent a further significant revision to the original proposal. The exception for banks having an average of fewer than 200 securities transactions per year has previously been discussed. It should be noted that although such banks would be exempt from certain of the recordkeeping requirements, these banks would nevertheless be subject to the confirmation requirements and other provisions of the regulation, wherever applicable. In addition, activities of foreign branches of State member banks would be exempt from the requirements of this regulation.

In connection with its original proposal, the Board also requested comment regarding the need for regulations requiring best execution of securities transactions and imposing competency and testing requirements for bank employees engaged in effecting securities transactions. Based on comments received, the Board has decided to take no further action in this area at this time.

As to the best execution requirement, the Board believes that traditional trust and agency principles already make clear the obligation of banks to use reasonable care in effecting securities transactions to obtain the best terms possible for customers. Because of the numereous and highly subjective considerations involved in meeting this obligation, the Board believes that the term "best execution" cannot be reasonably defined by regulation and that any attempt to do so would limit the flexibility of banks in complying with such principles and would unfairly impose upon all banks a detailed standard of performance that may not be appropriate to, or adequately reflect, their individual circumstances or the needs of their customers. It is further observed that the regulations presently applicable to broker/dealers, through which most securities transactions of banks are effected, contain little more than a simple restatement of the traditional agency principle.

Regarding competency and testing requirements, the Board believes that, even if sufficient statutory authority were deemed to exist to promulgate regulations in this area, it would be inappropriate to establish a costly and elaborate scheme for testing the competence of individuals associated with only one small aspect of total banking activity. The Board recognizes the need for specific training of bank personnel engaged in effecting securities transactions in operation of the securities market and of the requirements of the securities laws. As the SEC final report itself recognizes, however, the level of training and knowledge that is required will vary depending on the volume and size of the transactions effected. The bank examination process has traditional been effectively used to detect and remedy personnel weaknesses and the Board believes that continued reliance on the examination process, augmented by increased examiner training in the requirements of the Federal securities laws, will be more effective in assuring an appropriate level of competence than prescribing a generalized uniform test that may or may not be relevant to a particular situation.

To aid in consideration of this proposal by the Board, interested persons are invited to submit relevant data, views, comments or arguments. The Board is specifically requesting information concerning the projected costs of implementing the proposed amendments. Information should be separately furnished as to projected startup costs and continuing costs and, to the extent feasible, these estimates should be allocated between the recordkeeping and confirmation requirements. Unit transaction costs should be furnished if possible, indicating, if known, variances in such costs, depending on volume of transactions.

1. Pursuant to sections 9 and 11 of the Federal Reserve Act (12 U.S.C. 321, 248(a) and (i)) and section 8(b)(1) et seq. of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) the Board proposes to amend regulation H (12 CFR 208) by adding a paragraph (k) to § 208.8 as set forth below:

§ 208.8 Banking practices.

* * * * *

(k) *Recordkeeping and confirmation of certain securities transactions effected by State member banks.* (1) *Definitions.* For purposes of this paragraph (k):

(i) "Customer" shall mean any person or account, including any agency, trust, estate, guardianship, committee or other fiduciary account, for which a State member bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank or issuer of the securities which are the subject of the transactions;

(ii) "Periodic plan" means any written authorization for a State member bank acting as agent to purchase or sell for a customer a specific security or securities, in specific amounts (calculated in security units or dollars) or to the extent of dividends and funds available, at specitfic time intervals and setting forth the commission or charges to be paid by the customer in connection therewith or the manner of calculating them;

(iii) "Collective investment fund" means funds held by a State member bank as fiduciary and, consistent with local law, invested collectively (A) in a common trust fund maintained by such bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as trustee, executor, administrator, guardian, or custodian under the Uniform Gifts to Minors Act, or (B) in a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or similar trusts which are exempt from Federal income taxation under the Internal Revenue Code;

(iv) "Security" means any interest or instrument commonly known as a "security", whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness or any participation in or right to subscribe to or purchase any of the foregoing. The term "security" does not include (A) a deposit or share account in a federally insured depositary institution, (B) a loan participation, (C) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (D) currency, (E) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (F) units of a collective

investment fund, or (G) interests in a variable amount (master) note of a borrower of prime credit;

(v) A bank shall be deemed to exercise "investment discretion" with respect to an account if, directly or indirectly, the bank (A) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (B) makes purchased or sold by or for the specific account even though some other person may have responsibility for such investment decisions.

(2) *Recordkeeping.* Every State member bank effecting securities transactions for customers shall maintain the following records with respect to such transactions for at least 3 years:

(i) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. The records of original entry shall show the account for which each such transaction was effected, the description of the securities, the unit and aggregate purchase or sale price (if any), the trade date and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(ii) Account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all receipts and disbursements of cash with respect to transactions in securities for such account and all other debits and credits pertaining to transactions in securities.

(iii) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

(A) The account for which the transaction was effected;

(B) Whether the transaction was a market order, limit order, or subject to special instructions;

(C) The time the order was received by the trader or other bank employee responsible for effecting the transaction;

(D) The time the order was placed with the broker/dealer, or if there was no broker/dealer, the time the order was executed or cancelled;

(E) The price at which the order was executed; and

(F) The broker/dealer utilized;

(iv) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each such broker during the calendar year.

(3) *Form of notification.* Every State member bank effecting a securities transaction for a customer shall maintain for at least 3 years and, except as provided in paragraph (k)(4) of this section, shall mail or otherwise furnish to such customer either of the following types of notifications:

(i) (A) a copy of the confirmation of a broker/dealer relating to the securities transaction; and (B) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a prior written agreement between the bank and the customer, a statement of the source and the amount of any remuneration to be received; or

(ii) A written notification disclosing

(A) The name of the bank;

(B) The name of the customer;

(C) Whether the bank is acting as agent for such customer, as agent for both such customer and some other person, as principal for its own account, or in any other capacity;

(D) The date and time of execution (or the fact that the time of execution will be furnished, within a reasonable time, upon written request of such customer), and the identity, price and number of shares or units (or principal amount in the case of debt securities) of such security purchased or sold by such a customer;

(E) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from such customer in connection with the transaction;

(F) The source and amount of any remuneration received or to be received by the bank from the customer or any other source in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer; and

(G) The name of the broker/dealer utilized; or, where there is no broker/dealer, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request.

Provided, however, That the requirements of this paragraph (k)(3) shall not be applicable to transactions in (1) securities issued or guaranteed as to principal or interest by the United States; (2) Federal agency obligations; or (3) municipal securities as defined in section 3(a)(29) of the Securities Exchange Act of 1934.

(4) *Time of notification.* The time for mailing or otherwise furnishing the written notification described in paragraph (k)(3) of this section shall be 5 business days from the date of the transaction, or if a broker/dealer is utilized, within 5 business days from the receipt by the bank of the broker/dealer's confirmation, unless the transaction is effected for:

(i) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement; provided, however, that such agreement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customer;

(ii) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person, upon the request of any person holding a vested beneficial interest in such account, mail or otherwise furnish to such person the written notification within a reasonable time. The bank may charge a reasonable fee for providing this information.

(iii) Accounts, where the bank exercises investment discretion in an agency capacity, in which instance (A) the bank shall mail or otherwise furnish to each customer not less frequently than once every 3 months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's account during such period, and (B) if requested by the customer, the bank shall mail or otherwise furnish to each such customer within a reasonable time the writtern notification described in paragraph (k)(3) of this section.

(iv) A collective investment fund, in which instance the bank shall at least annually furnish the customer a copy of a financial report of the fund, or provide notice that a copy of such report is available and will be furnished upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. This report shall be based upon an audit made by independent public accountants or internal auditors responsible only to the board of directors of the bank.

(v) A periodic plan, in which instance the bank shall: A mail or otherwise furnish to the customer after the end of each quarterly period in which a transaction was completed, a writtern statement showing the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's account during such period; or (B) the bank shall mail or otherwise furnish on a per transaction basis within a reasonable time following each transaction the information described in paragraph (k)(3) of this section, except that any such information relating to remuneration paid in connection with transactions in securi-

ties need not be provided to the customer when paid by a source other than the customer. The bank may charge a reasonable fee for providing this information. In the event the bank elects (1) above, it shall, upon written request from the customer, supply the information described in (2) above.

(5) *Securities trading policies and procedures.* Every State member bank effecting securities transactions for customers shall establish written policies and procedures providing:

(i) Assignment of responsibility for supervision of all officers or employees who (A) transmit orders to or place orders with broker/dealers, or (B) execute transactions in securities for customers;

(ii) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination;

(iii) Where applicable, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(iv) That bank officers or employees whose duties include account management or effecting securities transactions for customers, or who are directly engaged in the management, direction or supervision of such officers or employees, must report to the bank, all securities transactions made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest, except (A) transactions effected in any account over which the bank officer or employee has no direct or indirect influence or control, and (B) transactions in U.S. Government or agency obligations. These reports shall be filed with the bank within 10 days after the end of each quarterly period in which any such security transaction was effected and shall be retained by the bank for 3 years.

(6) *Exceptions.* The following exceptions to this paragraph (k) shall apply:

(i) The requirements of paragraphs (k)(2)(ii) through (k)(2)(iv) shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior 3-calendar-year period;

(ii) Activities of a State member bank that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of this paragraph (k); and

(iii) Activities of foreign branches of a State member bank shall not be subject to the requirements of this paragraph (k).

Board of Governors of the Federal Reserve System, October 27, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-30843 Filed 10-31-78; 8:45 am]

[4810-33-M]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 12]

RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR CERTAIN TRANSACTIONS EFFECTED BY NATIONAL BANKS

AGENCY: Comptroller of the Currency.

ACTION: Republication of proposed rule.

SUMMARY: On Tuesday, February 7, 1978, the Comptroller of the Currency ("Comptroller") published for comment in the FEDERAL REGISTER (43 FR 5004) proposed amendments that would require national banks to establish uniform procedures and records relating to the handling of securities transactions for trust department accounts and for customers. The proposed amendments were in part an outgrowth of the recommendations of the Securities and Exchange Commission's Final Report on Bank Securities Activities. Interested persons were also given the opportunity to consider whether and to what extent regulations should be promulgated concerning: (1) Best execution of securities transactions and (2) personnel training and competency requirements. The original comment period ended March 31, 1978, but was extended to May 1, 1978. Similar proposals were also published for comment by the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation.

The Comptroller received over 200 comment letters with a substantial number setting forth significant criticisms of the proposed amendments. As a result of careful consideration and in response to the comment letters the Comptroller has determined to revise the proposed amendments and to republish them for additional comment in a new part, 12 CFR Part 12, entitled, "Recordkeeping and Confirmation Requirements for Certain Transactions Effected by National Banks." The Comptroller at this time is taking no further action regarding the promulgation of regulations concerning the best execution of securities transactions and personnel training and competency requirements. The latter subject is still under consideration however and additional comments are requested from interested parties. Information as to estimated costs of implementation of the proposed amendment is also being requested.

DATE: Written comments must be received on or before December 18, 1978.

ADDRESS: Comments should be addressed to Mr. Dean E. Miller, Deputy Comptroller for Specialized Examinations, Office of the Comptroller of the Currency, 490 L'Enfant Plaza SW., Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Mr. Dean E. Miller, Deputy Comptroller for Specialized Examinations, at the above address or telephone at 202-447-1731.

SUPPLEMENTARY INFORMATION: The proposed amendments to 12 CFR 9.11 have been substantially revised as a result of the numerous comments received. A summary of the comments and the Comptroller's response is as follows:

(1) A number of commentators took exception to the Comptroller's issuing the proposed amendments pursuant to 12 U.S.C. 92a and 12 CFR 9.11 which relate to trust department activities. The major criticism was that to the extent the proposed amendments regulate bank securities activities which are outside the scope of 12 U.S.C 92a and 12 CFR Part 9, adequate notice is not provided to national banks engaging in nonrelated trust department transactions. In response, the Comptroller is publishing the proposed amendments pursuant to 12 U.S.C. 1 et seq., 12 U.S.C. 92a and under a new 12 CFR Part 12 entitled, "Recordkeeping and Confirmation Requirements for Certain Securities Transactions Effected by National Banks." Proposed 12 CFR Part 12 would require that national banks that effect certain securities transactions for customers establish uniform procedures and records relating to the handling of securities transactions for trust department accounts and for customers.

(2) The Comptroller, in response to a number of comments, has revised the recordkeeping requirements as originally proposed (see proposed 12 CFR 9.11(h), 43 FR 5005). A number of commentators expressed concern that the requirements, as proposed, would be burdensome and costly due to: (1) The length of time for which the required records would be kept; and (2) the variety of records which would be required to be maintained. The Comptroller, in order to reduce the volume of records which a national bank would be required to maintain, is proposing to decrease the record retention requirement from 6 to 3 years. (See proposed 12 CFR 12.3.) Also, a bank would be required to maintain copies of confirmations sent to cus-

tomers for a 3 year period. (See proposed 12 CFR 12.4.)

The Comptroller in response to comments received, deleted the requirement for maintaining a chronological record of all receipts and deliveries of securities and of receipts and cash disbursements. However, this information would still be required to be maintained in account records of customers. (See proposed 12 CFR 12.3(b).)

The regulation as originally proposed would have required a bank to include on the order ticket the time the order was executed. In response to a number of comments, the Comptroller is proposing instead to require that a bank include on the order ticket the time the order was placed with the broker/dealer, where a broker/dealer has been utilized. (See proposed 12 CFR 12.3(c)(4).) Where a broker/dealer is not utilized, the time of execution would still be required.

In the February 7, 1978 proposal, the Comptroller would have required that national banks keep a record of all broker/dealers used by the bank to effect securities transactions. In response to comments received, this proposal would be revised to permit national banks to maintain records of only those broker/dealers selected by the bank to effect securities transactions. (See 12 CFR 12.3(a).) However, this provision would be expanded to require that a national bank keep a record of the amount of commissions paid or allocated to each broker during the calendar year.

The Comptroller very seriously considered the comments received from national banks which effect few securities transactions for their customers. In response, the Comptroller is proposing to exempt from certain of the recordkeeping requirements those banks which have an average of less than 50 securities transactions per year for customers over the prior 3 year calendar period. (See proposed 12 CFR 12.7(a).) Thus, such banks that effect a nominal number of securities transactions would have to maintain significantly fewer records. Also, the Comptroller has retained its general exception provision by which a national bank may request waiver of one or more of the requirements of 12 CFR Part 12. (See proposed 12 CFR 12.7(d).)

(3) The Comptroller received a number of comment letters regarding the proposed confirmation requirements (See 12 CFR 9.11(e), 43 FR 5004.) The Comptroller would revise the regulation to require that where a bank utilizes a broker/dealer, the confirmation would be furnished within 5 business days from the date the bank receives the broker/dealer confirmation, rather than 5 business days from the date of the transaction. (See proposed 12 CFR 12.5.) However, where the bank does not utilize a broker/dealer to effect securities transactions, the confirmation would be furnished to the customer within 5 business days from the date of the transaction. (See proposed 12 CFR 12.5.)

A number of commentators indicated that many customers specifically request that confirmations be sent at periodic intervals, such as quarterly, rather than immediately after the transaction is executed. The Comptroller would revise the confirmation requirements to diminish the number of confirmations which a bank must furnish to customers. Where a national bank does not exercise investment discretion, as defined in proposed 12 CFR 12.2(e), the bank and the customer may agree to a different arrangement, provided that such arrangement specifies the customer's right to receive written notification within the prescribed time period at no additional cost. (See proposed 12 CFR 12.5(a).) In the case where a national bank exercises investment discretion in other than an agency capacity, no confirmation would be required except upon request of certain specified persons. (See proposed 12 CFR 12.5(b).) The national bank would be able to charge a reasonable fee. For an account where the national bank exercises investment discretion in an agency capacity, the bank may either mail or furnish to each customer at least every three months an itemized statement or if requested by the customer, the bank may within a reasonable time furnish to each customer the written notice described in proposed 12 CFR 12.4.

(4) A number of commentators suggested that an exception to the requirements should be provided to activities of foreign branches of national banks. (See proposed 12 CFR 12.7(c).)

(5) The Comptroller in the original proposal requested comments regarding the adoption in regulatory form of a requirement that a bank obtain "best execution" of a securities transaction. The overwhelming number of commentators opposed specific regulations because: (1) The term "best execution" cannot be precisely defined; (2) a regulation would at best merely restate the present fiduciary duty and at worse introduce ambiguities which would needlessly confuse banks; and (3) until more detailed best execution rules are provided for broker/dealers, it would not be appropriate for the Comptroller to propose at this time his own rules because in many cases banks engaging in securities transactions use the services of broker/dealers. Based upon these comments, the Comptoller has determined not to propose in regulatory form a requirement or regulation that a bank must obtain best execution of a securities transaction.

(6) National banks were also requested to submit comments regarding possible regulations respecting personnel training and competency requirements. Based upon the comments received and after reviewing the issues involved, the Comptroller believes that it would be extremely difficult and perhaps inappropriate to establish an elaborate scheme for testing the competence of individuals associated with only one small aspect of total banking activities. The Comptroller recognizes the need for specific training of bank personnel engaged in effecting securities transactions, however, a number of the larger banks indicated that they already maintain in-house training staffs for the purpose of upgrading the knowledge and skills of their employees. The bank examination process has traditionally been effectively used to detect and remedy violations of law and personnel weaknesses within a bank. The Comptroller is constantly educating and updating the knowledge of bank examiners as to the requirements of the Federal securities laws and believes that the continued reliance on the examination process may be more effective in assuring an appropriate level of competence of bank personnel than prescribing a generalized uniform test that may or may not be relevant to a particular bank or a particular situation. The views of interested parties as to this subject are requested.

The Comptroller also requests information concerning the projected costs of implementing the proposed amendments. Information is requested as to startup and continuing costs; and, if feasible, these estimates should be allocated between the recordkeeping and confirmation requirements. Unit transaction costs are requested, including possible variances as a result of volume transactions.

DRAFTING INFORMATION: The principal drafter of this document is Mr. Ralph Janvey, Attorney, Securities Disclosure Division, Comptroller of the Currency.

The Comptroller proposes to add a new part 12 to his regulations as set forth below:

PART 12—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Sec.

12.1 Scope of part.
12.2 Definitions.
12.3 Recordkeeping.
12.4 Form of notification.
12.5 Time of notification.
12.6 Securities trading policies and procedures.
12.7 Exceptions.

AUTHORITY: R. S. 324 et seq., as amended, 12 U.S.C. 1 et seq., 12 U.S.C. 92a.

§ 12.1 Scope of part.

This part is issued by the Comptroller of the Currency under the general authority of the National Banking Laws, R.S. 324 et. seq., as amended; 12 USC 1 et. seq.; 12 seq.; 12 USC 92a, and contains rules applicable to recordkeeping and confirmation requirements for certain transactions effected by national banks.

§ 12.2 Definitions.

For the purposes of this part:

(a) "Customer" means any person or account, including any agency, trust, estate, guardianship, committee or other fiduciary account for which a national bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank or issuer of the securities which are the subject of the transactions.

(b) "Periodic plan" means any written authorization for a national bank acting as agent to purchase or sell for a customer a specific security or securities, in specific amounts (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals and setting forth the commission or charges to be paid by the customer in connection therewith or the manner of calculating them.

(c) "Collective investment fund" means any fund as defined in 12 CFR 9.18(a).

(d) "Security" means any interest or instrument commonly known as a "security," whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness or any participation in or right to subscribe to or purchase any of the foregoing. The term "security" does not include (1) a deposit or share account in a federally insured depositary institution, (2) a loan participation, (3) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (4) currency, (5) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (6) units of collective investment funds, or (7) interests in a variable amount (master) note as defined in 12 CFR 9.18(c)(2)(ii).

(e) A bank shall be deemed to exercise "investment discretion" with respect to an account, if directly or indirectly the bank (1) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (2) makes recommendations as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

§ 12.3 Recordkeeping.

Every national bank effecting securities transactions for customers shall maintain the following records with respect to such transactions for at least 3 years:

(a) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. The records of original entry shall show the account for which each such transaction was effected, the description of the securities, the unit and aggregate purchase or sale price (if any), the trade date and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(b) Account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all receipts and disbursements of cash with respect to transactions in securities for such account and all other debits and credits pertaining to transactions in securities;

(c) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

(1) The account for which the transaction was effected;

(2) Whether the transaction was market order, limit or subject to special instructions;

(3) The time the order was received by the trader or other bank employee responsible for effecting the transaction;

(4) The time the order was placed with the broker/dealer, or if there was no broker/dealer, the time the order was executed or cancelled;

(5) The price at which the order was executed; and

(6) The broker/dealer utilized;

(d) A record of all broker/dealers selected by the bank to effect securties transactions and the amount of commissions paid or allocated to each such broker during the calendar year.

§ 12.4 Form of notification.

Every national bank effecting a securities transaction for a customer shall maintain for at least 3 years and mail or otherwise furnish to such customer, except as provided in 12 CFR 12.5, either of the following types of notifications:

(a)(1) A copy of the confirmation of a broker/dealer relating to the securities transactions; and (2) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a written agreement between the bank and the customer, a statement of the source and amount of any remuneration to be received; or

(b) A written notification disclosing:

(1) The name of the bank;

(2) The name of the customer;

(3) Whether the bank is acting as agent for such customer, as agent for both such customer and some other person, as principal for its own account, or in any other capacity;

(4) The date and time of execution (or the fact that the time of execution will be furnished, within a reasonable time, upon written request of such customer), and the identity, price and number of shares or units (or principal amount in the case of debt securities) of such security purchased or sold by such a customer;

(5) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from such customer in connection with the transaction;

(6) The source and amount of any remuneration received or to be received by the bank from the customer or any other source in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer; and

(7) The name of the broker/dealer utilized; or where there is no broker/dealer, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request.

Provided, however, That the requirements of 12 CFR 12.4 shall not be applicable to transactions in (a) securities issued or guaranteed as to principal or interest by the United States; (b) Federal agency obligations; or (c) municipal securities as defined in section 3(a)(29) of the Securities Exchange Act of 1934.

§ 12.5 Time of notification.

The time for mailing or otherwise furnishing the written notification described in 12 CFR 12.4 shall be 5 business days from the date of the transaction, or if a broker/dealer is utilized, within 5 business days from the receipt by the bank of the broker/dealer's confirmation, unless the transaction is effected for:

(a) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement; provided, however, that such agreement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customer;

(b) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person, upon the request of any person holding a vested beneficial interest in such account, mail or otherwise furnish to such person the written notification within a reasonable time. The bank may charge a reasonable fee for providing this information;

(c) Accounts where the bank exercises investment discretion in an agency capacity, in which instance: (1) the bank shall mail or otherwise furnish to each customer not less frequently than once every 3 months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's account during such period; and (2) if requested by the customer, the bank shall mail or otherwise furnish to each such customer within a reasonable time the written notification described in 12 CFR 12.4;

(d) A collective investment fund, in which instance the provision of 12 CFR 9.18(b)(5) shall apply;

(e) A periodic plan, in which instance the bank shall: (1) Mail or otherwise furnish to the customer after the end of each quarterly period in which a transaction was completed, a written statement showing the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's account during such period; or (2) the bank shall mail or otherwise furnish on a per transaction basis within a reasonable time following each transaction the information described in 12 CFR 12.4, except that any such information relating to remuneration paid in connection with transactions in securities need not be provided to the customer when paid by a source other than the customer. In the event the bank elects (e)(1), it shall, upon written request from the customer, supply the information described in (e)(2).

§ 12.6 Securities trading policies and procedures.

Every national bank effecting securities transactions for customers shall establish written policies and procedures providing:

(a) Assignment of responsibility for supervision of all officers or employees who: (1) Transmit orders to or place orders with broker/dealers or (2) execute transactions in securities for customers;

(b) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination;

(c) Where applicable, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transactions; and

(d) That bank officers or employees whose duties include account management or effecting securities transactions for customers, or who directly supervise such activities, must report to the bank all securities transactions made by them or through their direction or control in their behalf, either at the bank or elsewhere, in which they have a beneficial interest. These reports shall be filed with the bank within 10 days after the end of each quarterly period in which any such security transaction was effected and shall be retained by the bank for 3 years.

§ 12.7 Exceptions.

The following exceptions to this Part shall apply:

(a) The requirements of 12 CFR 12.3(b) through 12 CFR 12.3(d) shall not apply to banks having an average of less than 50 securities transactions per year for customers over the prior 3-calendar-year period;

(b) Activities of national banks that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of 12 CFR Part 12;

(c) Activities of foreign branches of a national bank shall not be subject to the requirements of 12 CFR Part 12; and

(d) In appropriate cases the Comptroller of the Currency may waive one or more of the requirements set forth in 12 CFR 12.2, 12 CFR 12.3, 12 CFR 12.4, 12 CFR 12.5 and 12 CFR 12.6, either in whole or in part.

Dated: October 18, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-30842 Filed 10-31-78; 8:45 am]

[4830-01-M]

Internal Revenue Service

[26 CFR Parts 1 and 7]

[LR-199-76]

INCOME TAX

Amortization of Certain Rehabilitation Costs for Certified Historic Structures

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking with respect to amortization of certain rehabilitation costs for certified historic structures. The extended deadline for submission of comments and requests for a public hearing is November 29, 1978.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 29, 1978.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (LR-199-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

H. Benjamin Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the FEDERAL REGISTER for Wednesday, August 30, 1978 (43 FR 38731), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-199-76), Washington, D.C. 20224, by October 30, 1978. The date by which comments or requests must be delivered or mailed is hereby extended to November 29, 1978.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the *Federal Register* for Wednesday, May 24, 1978.

By direction of the Commissioner of Internal Revenue:

DAVID E. DICKINSON,
Assistant Director, Legislation and Regulations Division.

[FR Doc. 78-30784 Filed 10-31-78; 8:45 am]

[4310-10-M]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Part 715]

SURFACE COAL MINING AND RECLAMATION OPERATIONS

Appendix—Alluvial Valley Floors Technical Guidelines

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Further extension of comment period.

SUMMARY: On Friday, October 27, 1978, a notice was published in the FEDERAL REGISTER (43 FR 50407) extending the period for submission of comments specified in notice published August 25, 1978 (43 FR 38035), proposing technical guidelines for preliminary identification of alluvial valley floors, for period of 9 days, or until November 1, 1978. OSM has determined further extension is necessay to permit the preparation and submission of more detailed comments by interested members of the public.

DATE: Comments must be received on or before November 6, 1978.

ADDRESS: Comments should be sent to the Regional Director, Office of Surface Mining Reclamation and Enforcement, Region V, 1823 Stout Street, Denver, Colo. 80202.

FOR FURTHER INFORMATION CONTACT:

John Hardaway, Office of Surface Mining Reclamation and Enforcement, Region V, 1823 Stout Street, Denver, Colo. 30202, 303-837-5511.

Dated: October 27, 1978.

WALTER N. HEINE,
Director, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 78-30889 Filed 10-31-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL; 998-4; Docket No. 9-78-7]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Hawthorne Army Ammunition Plant, Hawthorne, Nev.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to Hawthorne Army Ammunition Plant. The order requires the Army to bring air emissions from its rotary demil furnaces in Hawthorne, Nev. into compliance with certain regulations contained in the federally approved Nevada State implementation plan (SIP). Because the Army is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by June 30, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPD's proposed issuance of the order.

DATES: Written comments must be received on or before December 1, 1978, and requests for a public hearing must be received on or before November 16, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 30 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

William M. Thurston, Chief, Case Development Section, Air and Hazardous Materials Branch, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-556-6150.

SUPPLEMENTARY INFORMATION: The Army operates a plant for the destruction of ammunition at Hawthorne, Nev. The proposed order addresses emissions from two rotary demil furnaces at this facility, which are subject to article 7, rules 7.2.1. and 7.2.2 of the State of Nevada air quality regulations. The regulations limit the emissions of particulate matter, and are part of the federally approved Nevada State implementation plan. The order requires final compliance with the regulations by June 30, 1979, and the source has consented to its terms.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: October 20, 1978.

FRANK M. COVINGTON,
Acting Regional Administrator, Environmental Protection Agency, Region IX.

In consideration of the foregoing, it is proposed to amend 40 CFR 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.330, Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act, to reflect approval of the following order:

ENVIRONMENTAL PROTECTION AGENCY REGION IX

[Docket No. 9-78-7]

In the matter of Hawthorne Army Ammunition Plant, Hawthorne, Nev., proceeding under section 113(d), Clean Air Act, as amended. Order.

This order is issued pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. "the Act." This order contains a schedule for compliance, interim requirements, monitoring and reporting requirements. Public notice, opportunity for a public hearing and 30 days' notice to the State of Nevada have been provided pursuant to section 13(d)(1) of the Act.

FINDINGS

On April 17, 1978, the U.S. Environmental Protection Agency (EPA) issued a notice of violation, pursuant to section 113(a)(1) of the Act, to Hawthorne Army Ammunition Plant upon a finding that the Hawthorne Army Ammunition Plant's two rotary demil furnaces are in violation of article 7, rules 7.2.1 and 7.2.2. of the State of Nevada air quality regulations, a part of the applicable Nevada implementation plan as defined in section 110(d) of the Act. This finding was based upon a 1974 source test of this type of furnace.

Said violation has extended beyond the 30th day after issuance of the April 17, 1978,

notice of violation. This finding is based upon statements made by Hawthorne Army Ammunition Plant personnel at a May 11, 1978, conference with EPA that Hawthorne Army Ammunition Plant would continue to use its two rotary demil furnaces to dispose of ammunition until June 1979. Hawthorne Army Ammunition Plant is presently unable to comply with article 7, rules 7.2.1 and 7.2.2 of the State of Nevada air quality regulations.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, it is hereby ordered:

I. That Hawthorne Army Ammunition Plant will comply with the Nevada implementation plan regulations in accordance with the following schedule on or before the dates specified therein.

A. For the construction of the new rotary demil furnaces (a part of the new Western demilitarization facility):

1. Award contracts or issue purchase orders—Completed.

2. Initiate onsite construction and/or installation of equipment—Completed.

B. Achieve compliance by ceasing operation of the two existing rotary demil furnaces—June 30, 1979.

II. That Hawthorne Army Ammunition Plant shall comply with the following reasonable interim requirement which is determined to be the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section I, above), and is necessary to avoid imminent and substantial endangerment to the health of persons and to assure compliance with article 7, rules 7.2.1 and 7.2.2 of the State of Nevada air quality regulations insofar as Hawthorne Army Ammunition Plant is able to comply during the period this order is in effect:

A. Limit the type of ammunition fed to the two rotary demil furnaces to 20 millimeter rounds.

III. That Hawthorne Army Ammunition Plant is not relieved by this order from compliance with any requirements imposed by the applicable State implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That Hawthorne Army Ammunition Plant shall comply with the following monitoring and reporting requirements on or before the dates specified below:

A. Monitoring—

1. That Hawthorne Army Ammunition Plant shall keep a record of the amount of ammunition destroyed each week and the total amount of material left to be disposed of.

2. That these records shall be submitted to EPA quarterly until the furnaces cease operation. Reports are due September 30, 1978, December 31, 1978, March 31, 1979, and June 30, 1979.

B. Reporting requirements—

1. No later than 5 days after any date for achievement of an incremental step or final compliance specified in this order, Hawthorne Army Ammunition Plant shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this order, Hawthorne Army Ammunition Plant shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

2. All submittals and notifications to EPA pursuant to this order shall be made to the Director, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

V. Nothing herein shall affect the responsibility of Hawthorne Army Ammunition Plant to comply with State, local or other Federal regulations.

VI. Hawthorne Army Ammunition Plant is hereby notified that your failure to achieve final compliance by July 1, 1979, may result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, Hawthorne Army Ammunition Plant will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VII. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with article 7, rules 7.2.1 and 7.2.2 of the State of Nevada air quality regulations no longer exists.

VIII. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirements pursuant to sections 113 (a), or (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of article 7, rules 7.2.1 and 7.2.2 of the State of Nevada air quality regulations in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

IX. This order is effective on November 1, 1978.

CONSENT PROVISION

Hawthorne Army Ammunition Plant acknowledges that its Hawthorne, Nev. facility is in violation of article 7, rules 7.2.1 and 7.2.2 of the State of Nevada air quality regulations. Furthermore, Hawthorne Army Ammunition Plant has reviewed this order, believes it to be a reasonable means to attain compliance with article 7, rules 7.2.1 and 7.2.2 of the State of Nevada air quality regulations and consents to the terms of the order.

Dated September 25, 1978.

COL. ROYCE M. POWELL,
Commanding Officer,
Hawthorne Army Ammunition Plant.

[FR Doc. 78-30789 Filed 10-31-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 456]

MEDICAL ASSISTANCE PROGRAM

Medicaid Utilization Control

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide for the reduction of the Federal share of medicaid payments to a State if its medicaid agency does not demonstrate, to the satisfaction of the Administrator of HCFA, that it has an effective program of control over the utilization of inpatient institutional services. The proposed rule specifies: (1) The requirements agencies must meet to avoid a reduction in Federal matching; (2) the content and format of quarterly reports which agencies must make to show that they have met these requirements; (3) a formula for reduction in Federal matching payments which is based on the number of patients in those facilities in which the requirements were not met; and (4) the procedures for making required reductions. It would implement section 20 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142), would incorporate existing policies established by HCFA implementing section 1903(g) of the Social Security Act, and would propose certain new requirements. The proposed rule is intended to lessen the severity of the existing penalty requirement and develop more effective management procedures for the program.

DATE: Closing date for receipt of comments: January 2, 1978.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013.

In commenting, please refer to MMB-234-P. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection beginning two weeks from today in room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., 202-245-0950.

FOR FURTHER INFORMATION, CONTACT:

Phillip Otto, telephone 202-472-6551.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 1903(g) of the Social Security Act requires a reduction in Federal matching payments for the costs of inpatient institutional services under medicaid in every quarter for which a State fails to make a satisfactory showing that it has an effective program of control over the utilization of those services.

Section 1903(g) specifies the four basic requirements of a utilization control (UC) program. With respect to each patient:

1. The need for inpatient services must be certified, and periodically recertified, by a physician;

2. A plan of care must be established and periodically reviewed by a physician;

3. The State must have a continuous program of utilization review under which the admission of each recipient is either reviewed or screened; and

4. The State must have an effective program of medical and independent professional review.

Before the 1977 amendments made by Pub. L. 95-142, the statute required that the Federal medical assistance percentage, with respect to amounts paid for long stay services, be reduced by one-third for each quarter and each category of institution for which UC requirements were not met. Although we announced reductions under these provisions amounting to millions of dollars during 1977, these reductions were postponed by the Congress. (See Pub. L. 95-59; Pub. L. 95-142.)

SUMMARY OF PROPOSED REGULATION

Pub. L. 95-142 made a number of changes to section 1903(g). The legislative history of these changes indicates that they were designed to lessen the severity of the required reductions, to establish a reasonable timetable for the submission of showings to HEW and the subsequent HEW review and validation, and to give adequate notice to the States of any resulting reductions. Specifically, these changes address the (1) timing of annual medical review (MR) and independent professional review (IPR); (2) staffing requirements for MR teams in skilled nursing facilities; (3) exceptions to the requirement that the State perform 100 percent of the required reviews; (4) timing for submission of a State's showing; (5) performance of validation surveys; (6) change in the reduction formula; and (7) timing of the final notice to a State of any reductions.

This proposed regulation supersedes the Notice of Intent (NOI) on quarterly showing requirements, published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3328). That NOI proposed to use a sample of institutions or institutionalized recipients to determine whether or not a showing was satisfactory. That sampling procedure is no longer appropriate, since Pub. L. 95-142 modified the formula for computing a reduction. Other issues raised in the NOI, such as the quarterly showing requirements for MR and IPR, were not resolved by Pub. L. 95-142. Comments received on those issues were considered in the preparation of this Notice of Proposed Rule Making (NPRM).

This proposed regulation would implement the statutory changes made by Pub. L. 95-142, and incorporate comments from the NOI. It would revise the requirements for a satisfactory UC program. It also would specify the content and procedures for submission of quarterly showings; provide for validation of quarterly showings; and specify procedures for the implementation of any required reductions. The proposed regulation attempts to provide specific answers to the following questions:

1. What UC requirements must be met for a State to have an effective UC program?

2. In which facilities must a State insure that UC requirements are met? How must it handle—

a. Services provided in out-of-State facilities?

b. Services provided in facilities without valid provider agreements?

3. With respect to which types of services must UC requirements be met?

4. When is an on-site medical or independent professional review in a facility required?

5. Who is required to conduct reviews in skilled nursing facilities?

6. What are acceptable reasons for not meeting the on-site review requirements?

7. What evidence must the State present, and in what format, to make a satisfactory showing?

8. How will we validate a showing?

9. How will reductions be made if we find that a State's showing is unsatisfactory?

10. What may a State do to request a reconsideration of a reduction?

11. What are State reporting requirements for facilities in which PSROs have assumed review responsibility?

NOTE.—The former penalty regulation 42 CFR 450.20(b) was made obsolete by the passage of Pub. L. 95-142, October 25, 1977; 42 CFR 450.20(b) was vacated by notice in the FEDERAL REGISTER (43 FR 45176) on September 29, 1978.

MAJOR ISSUES

1. *What UC requirements must be met for a State to have an effective UC program?*

As discussed above, section 1903(g) specifies four UC requirements: physician certification and recertification; plan of care; utilization review; and annual medical and independent professional review. The former penalty regulation (42 CFR 450.20(b)) provided that a State must also make a satisfactory showing that its UC program complies with additional requirements, specified in 42 CFR 450.18 (now recodified as 42 CFR part 456), such as discharge planning in skilled nursing facilities and long-stay data collection. These additional requirements are not included in our present quarterly showing format. We are proposing to delete them from the regulation and limit the requirements in this regulation to those four specified in section 1903(g).

2. *In which facilities must a State ensure that UC requirements are met?*

Sections 1902(a) (26) and (31) and section 1903(g) explicitly require that a State meet UC requirements for all facilities located within the State that provide inpatient services under its Medicaid plan. The statute, however, does not clearly deal with the following two situations:

a. *Services provided in out-of-State facilities.* A major issue is whether a State which claims Federal financial participation (FFP) for services provided to its recipients located in facilities outside the State is required to meet UC requirements for those recipients. The statute is ambiguous on this issue, and the legislative history is silent concerning it.

Section 1903(g)(1) refers to services furnished under the plan. It thus seems to require that a State ensure that all UC requirements are met for all recipients receiving inpatient services under its plan, regardless of where the recipients are located. Sections 1903(g)(1) (A) and (B) specify that physician certification and plan of care requirements be met for each recipient receiving services under the plan Section. 1903(g)(1)(C) requires a continuous program of utilization review under section 1902(a)(30), which refers to care and services available under the plan. However, section 1903(g)(1) also specifies that a State must make a satisfactory showing that there is an effective UC program "in operation in the State." Section 1903(g)(1)(D) incorporates the requirements for medical and independent professional reviews set forth in sections 1902(a) (26) and (31) of the Act. Sections 1902(a) (27)(A) and (31)(A) refer to care provided under the State plan, but sections 1902(a) (26)(B) and (31)(B), which contain the on-site review requirement, explicitly limit this requirement to facilities located "within the State."

Although the statute thus appears to require that a State meet all UC requirements, except for MR and IPR,

for all recipients under its plan, this raises serious questions as to how this requirement could be implemented. We do not presently require that a State make *any* showing for out-of-State recipients. Furthermore, we do not have adequate statistics on the numbers of out-of-State recipients. We, therefore, solicit comments on the kinds of problems States would face if they were required to meet any or all UC requirement for their out-of-State recipients.

We also solicit comments on the best way to administer UC requirements for out-of-State recipients. Possibilities include allowing the paying State to negotiate an agreement with each State in which its recipients are located, or with a PSRO, or requiring the paying State to perform UC requirements directly.

b. *Services provided in facilities without valid medicaid provider agreements.* Another issue is whether a State is responsible for meeting the UC requirements in facilities that do not have valid provider agreements. When this situation arises, it is typically because a provider agreement has expired, or a facility has appealed a denial or cancellation of a medicaid provider agreement, and continues to provide services during the appeal period.

We propose that if a State claims or intends to claim FFP for services provided in a facility without a valid provider agreement, it is responsible for ensuring that UC requirements are met for each recipient during the period that those services are provided.

3. *With respect to which types of services must the UC requirements be met?*

Section 1903(g)(1) specifies that UC requirements be met for inpatient hospital services (including tuberculosis hospitals), skilled nursing facility services, intermediate care facility service, and inpatient mental hospital services.

INPATIENT PSYCHIATRIC SERVICES FOR RECIPIENTS UNDER 21

The issue arises whether inpatient psychiatric services furnished to recipients under 21 should be subject to the provisions of section 1903(g) if they are furnished in non-hospital facilities.

In listing the services which must be covered by the UC program, section 1903(g)(1) uses the terms "inpatient * * * in a hospital for mental diseases" and "inpatient mental hospital" apparently interchangeably. Section 1903(g)(1)(D) similarly requires a State to have an "effective program of medical review of the care of patients in mental hospitals." In addition section 1905(a)(16) lists "inpatient psychiatric hospital services for individuals under 21" as an optional service under Medicaid. However, section 1905(h)(1)(A) defines such services as "inpatient services which are provided in an institution which is accredited as a psychiatric hospital by the Joint Commission on Accreditation of Hospitals" (JCAH). JCAH does not accredit psychiatric hospitals as such, but rather accredits institutions or programs providing inpatient psychiatric services as "psychiatric facilities." Such institutions may or may not be hospitals. Our implementing regulations (42 CFR 441.151(b), previously codified as 42 CFR 449.10(b)(16)(ii)) provide that inpatient psychiatric facility services shall include services provided by any psychiatric facility or program which is accredited by JCAH.

Since we have broadened the meaning of "hospital" in defining what psychiatric services are available under Medicaid, we also propose, for purposes of UC requirements, to interpret the phrase "inpatient mental hospital services" to include all inpatient psychiatric services paid for by Medicaid, whether those services are provided in a hospital or in another type of institution, or a program with a facility. We believe this fulfills the intent of section 1903(g) not to provide full FFP for any long-stay inpatient services unless a State has an effective program of utilizaton control over those services.

4. *When is an annual on-site medical or independent professional review in a facility required?*

a. *The first question is whether the requirement for annual review relates to the facility or to recipients.* Section 1903(g)(1)(D) requires that a State have "an effective program of medical review * * * pursuant to sections 1902(a) (26) and (31) whereby the professional management of *each case* is reviewed and *evaluated at least annually* by independent professional review teams." (Emphasis added.) Sections 1902(a)(26) and (31) require that a Medicaid plan provide for periodic on-site "inspections" to be made in all facilities of the care being provided to recipients. Our current regulations (42 CFR 456.606, previously codified as 450.23(a)(3)(iii) and 450.24(a)(3)(iii)) provide that the patient care review be conducted in a facility "at least annually." These statutory and regulatory provisions do not make the date on which a review in a facility is required dependent on the length of time individual recipients have received services in a facility.

We previously advised the States that, under section 1903(g), a State would meet the medical and independent professional review requirements for a facility if an on-site review of the care of each recipient in the facility was conducted whenever the facility had participated in the Medicaid program as a certified provider for 12 consecutive months without a review. (See action transmittals SRS-AT-76-88 and SRS-AT-76-176.) We did not require an agency to demonstrate that each of the thousands of recipients in its facilities received a review as soon as the recipient had received care for an annual period.

We propose to continue this approach for deciding when reviews must be performed. We recognize that, under this interpretation, there may be some recipients in a facility who are not reviewed, even though they have received care for an annual period, because they either been transferred or were absent from the facility at the time of the on-site review. We also recognize that there will be some recipients who are reviewed before they have been in the facility for a year. We believe, however, that since most receipients do not move in and out of long-term-care facilities, most individual receipients are being reviewed at least annually under our present interpretation. Moreover, we believe that those few cases in which recipients are not reviewed annually are not numerous enough to justify the reporting and administrative requirements that would be necessary to track reviews of each recipient.

b. *Modification of the interpretation of "annual."* We have previously interpreted the annual requirement of section 1903(g)(1)(D) to mean that review was timely if it was conducted during the same calendar month in which the facility either entered the program or received its last review. (See action transmittals SRS-AT-76-88 and SRS-AT-76-176.)

Public Law 95-142 modified our interpretation to permit the State to make the annual review within a 12-month period ending on the last day of the calendar quarter in which the review was required. This means that a medical review or independent professional review will be timely if it is completed by the end of the anniversary quarter of either the facility's entry into the program or its last review. For example, under the previous definition of annual, if a facility entered the program on February 10, 1978, a review would be required in the facility by February 28, 1979, the end of the month in which it entered the program. Under Pub. L. 95-142, a review is now required by March 31, 1979, the end of the anniversary quarter in which it entered the program. If the State fails to conduct a required review by the end of the quarter, it is required to conduct the review by the end of the following quarter.

Another issue is whether the date on which a facility is required to be inspected is postponed if a facility adds

or deletes a level of care. In SRS-AT-76-88, we specified that such a change would not affect a facility's required review date. We propose to continue that interpretation. Since the purpose of the statutory requirement is to ensure that the care of recipients in a facility is reviewed and evaluated at least annually, we believe that a change in the level of care should not affect the timing of that review.

The issue also arises as to whether an on-site review is required if there are no Medicaid recipients in the facility on the day the review is scheduled. In this situation, we propose not to required a review is scheduled. In this situation, we propose not to rqequire a review until the following quarter.

5. *Who is required to conduct on-site reviews in skilled nursing facilities?*

Existing regulations (42 CFR 456.602(b), previously codified as § 450.23(a)(2)(i)) require that each medical team reviewing the care of recipients in a skilled nursing facility (SNF) include at least one physician. Pub. L. 95-142 relaxed this team composition requirement for SMFs, but not for "mental institutions." The proposed regulation, therefore, permits the State to choose whether to have a physician, in addition to a registered nurse, on the review team in SNF. A physician would still be required on the review team in an institution for mental diseases.

6. *What are acceptable reasons for not meeting requirements?*

The proposed regulation would provide that a State will not be subject to a reduction FFP, even if it fails to meet the requirement for annual medical or independent professional review, if it meets certain conditions specified in section 1903(g)(4)(B), which was added to the statute by Pub. L. 95-142. These conditions are:

(a) That the State has completed on-site reviews in 98 percent of the total number of facilities in which an on-site review was required by the end of the quarter, and in each facility of 200 beds or more in which a review was required in that quarter (we interpret "beds" to mean beds certified for Medicaid); and

(b) That, in the case of any facility in which the required review was not conducted, the agency exercised good faith and due diligence in attempting to conduct the review, or failed to do so for technical reasons. If the State completed less than 98 percent of the required reviews in a quarter, it would be subject to a reduction, regardless of circumstances. (We propose to count dual-certified facilities twice in computing the total number of omitted reviews and the total number of reviews required to be conducted.)

The committee reports accompanying Pub. L. 95-142 make clear that this amendment was not intended to permit agencies to *aim* for less than 100 percent performance of the review requirement. Rather, it was intended to permit a limited exception to the 100 percent requirement in the specified situations. (See 95th Cong., 1st session, House Conference Rept. 95-673, p. 48.)

(1) *The good faith and due diligence exception.* We propose to excuse under the good faith and due diligence exception only those failures to perform reviews which are due to situations clearly beyond the State agency's control. Under this exception, failures to perform reviews due to recurring or predictable weather conditions would not be excused. Furthermore, if a State employee strike or severe blizzard or other situation beyond a State's control resulted in less than 98 percent performance, a State would be subject to a reduction for all missed reviews.

(2) *The technical failings exception.* The proposed regulation also provides that FFP will not be reduced for failure to meet the annual review requirements if the failure was for technical reasons only. The legislative history is silent on what kinds of failings are technical, but specifies that the exception would cover instances in which a State had reviewed patients in most facilities on time, with the remaining facilities reviewed within several weeks after the end of the quarter. (95th Cong., 1st sess. Senate Committee on Finance, S. Rept. No. 95-453, p. 41.) Therefore, we propose to excuse under this exception failure due to circumstances within the State's control, provided that the State completes the reviews within 30 days after the end of the quarter. In view of the fact that missed reviews excused under this provision were due to circumstances within the State's control, we believe that it is reasonable to require States to make up the missed reviews within a 30-day period in order to qualify for the exception. We would not excuse failures to complete reviews in any facility of 200 or more beds or in more than 2 percent of all facilities.

7. *What evidence must the State present, and in what format, to make a satisfactory showing?*

The proposed regulation codifies requirements for the content of quarterly showings, as prescribed by action transmittals SRS-AT-76-88; SRS-AT-76-155; SRS-AT-76-176; HCFA-AT-77-91; and HCFA-AT-77-106. These requirements include: (1) Certification by the head of the State agency that the UC requirements have been met; (2) lists of participating facilities, their beginning and ending provider agreement dates, and the dates of review by the review teams; (3) lists of all facilities in which the required review was not conducted; and (4) the name and qualifications of one member of each review team who is a physician or registered nurse.

The proposed regulation also provides that the showings must be submitted within 30 days of the end of the quarter for which they are made, unless the State demonstrates good cause for later submission. This requirement implements section 1903(g)(4)(A), added by Pub. L. 95-142. Under this exception, we propose to allow an agency an additional 2 weeks to submit its showings if its late submittals result from unanticipated circumstances beyond the agency's control. We do not propose to excuse deliberate failures to submit showings on time.

8. *How will we validate a showing?*

Section 1903(g)(1) requires a reduction in FFP for a quarter if a State does not make a satisfactory showing that it has an effective UC program. Section 1903(g)(2) requires us to "conduct timely sample on-site surveys of private and public institutions" as part of our validation procedures. (The word "timely" was added by section 20(a)(3) of Pub. L. 95-142.)

Prior to the amendments made by Pub. L. 95-142, we had interpreted the statute to require that States make some showing each quarter that UC requirements were met, and to authorize us either to find a showing satisfactory on the basis of the information submitted by the agency, or to validate that information. Thus, we determined whether or not a showing was satisfactory on the basis of our review of the information submitted by the State, together with any validation of the information. We propose to continue this approach, and to alternate comprehensive validation surveys at the State agencies with more limited on-site validation which will focus on UC problem areas.

9. *How will reductions be made if we find a State's showing unsatisfactory?*

a. *What will be the time periods for making reductions?*

The proposed regulation would set out time periods for notifying States of reductions, in accordance with the requirements specified in Pub. L. 95-142. It would also set out time periods for making the reductions. If a State's showing is unsatisfactory on its face, the reduction would be made by adjusting the grant award based on the Quarterly Statement of Expenditures for that quarter, which is ordinarily issued 90 days after the close of the quarter. The regulation would provide that we complete any validation procedures, make a final determination that a State's showing is unsatisfactory, and notify a State that its FFP for a

quarter must be reduced within 9 months after the end of the quarter for which the showing is made. The reduction would be made by amending the current grant award or adjusting the award for the next quarter. Notice of all reductions would be given at least 30 days before they took effect.

b. *How will reductions be calculated?*

Section 1903(g)(5), added by Pub. L. 95-142, modified the required statutory formula for assessing reductions. Prior to enactment of Pub. L. 95-142, the amount of reduction in FFP for each level of care for which requirements were not met in a quarter was one-third of the Federal medical assistance percentage for long-stay services provided at that level of care in that quarter. (Long-stay services are services provided after a total of 60 days of stay (90 in mental hospitals) in a year beginning July 1, not counting days of stay paid for fully or in part by medicare.)

Pub. L. 95-142 amended this formula by multiplying the reduction described above by a fraction. The numerator of this fraction is the number of recipients at a level of care in those facilities in which utilization control requirements were not met in that quarter. The denominator is the number of recipients at that level of care in all facilities for which the State is required to make a showing in that quarter. States should note that the new formula is based on the total number of patients in all facilities in which UC requirements were not met, and not only on the number of individual patients for whom requirements were not met. Thus, if the Department's validation survey reveals that there are no plans of care for 20 out of 200 medicaid SNF patients in a facility, the fiscal reduction will be based *on all 200* patients.

The proposed regulation would also provide, as does the present regulation, that we will estimate the amount of the reduction if any data required to compute the reduction are unavailable. If data on the number of recipients in individual facilities are not available to us, we will estimate the fraction by using the ratio of facilities at that level of care in which requirements were not met to total facilities at that level of care for which the agency is required to make a showing.

10. *What may a State do to request review of a reduction?*

The proposed regulation provides that the State agency may seek to have a reduction reviewed by the Departmental Grant Appeals Board, in accordance with the procedures specified in 45 CFR Part 16 for reconsideration of disallowances. In those cases in which we estimate the reduction because the data regarding the exact number of recipients were unavailable from the State at the time of the calculation, we propose to allow the State, during reconsideration, to submit whatever data are necessary to calculate exactly the amount of the required reduction.

11. *What are State reporting requirements for facilities in which PSROs have assumed review responsibility?*

In order to monitor the gradual assumption from the State by PSROs of long-term care review responsibilities, we have added a State plan requirement that States continue to report to the Department, on a quarterly basis, those facilities in which PSROs have assumed responsibility, and the date of that assumption. We are proposing this change in order to ensure that both the State and HCFA are clear in which long-term care facilities the State must still meet UC requirements. This reporting requirement should also help to ensure agreement between HCFA and the State concerning the facilities for which the State will again be responsible in the event a grant is ended with a particular PSRO.

42 CFR Part 456 is amended as set forth below:

1. A new § 456.7 is added to read as follows:

§ 456.7 Identification of facilities under PSRO review.

(a) The Medicaid agency must submit each quarter, by level of care and PSRO area, lists of all skilled nursing facilities, intermediate care facilities and mental hospitals in which a PSRO has assumed review responsibility, and the date of that assumption.

(b) Each facility listed must be identified by name, address and provider number. This list must accompany the State's Quarterly Showing required under Subpart J of this part.

2. Section 456.611 is revised by adding a new paragraph (c) to read as follows:

§ 456.611 Reports on inspections.

* * * * *

(c) The report must include the dates of the visit and the names and qualifications of the members of the team.

3. A new Subpart J is added to Part 456 to read as follows:

Subpart J—Penalty for Failure To Make a Satisfactory Showing of An Effective Institutional Utilization Control Program

* * * * *

Sec.

456.650 Basis, purpose, and scope.
456.651 Definitions.
456.652 Requirements for an effective utilization control program.
456.653 Acceptable reasons for not meeting requirements for annual on-site review.
456.654 Requirements for content of showings and procedures for submittal.
456.655 Validation of showings.
456.656 Reductions in FFP.
456.657 Computation of reductions in FFP.

AUTHORITY: Secs. 1102 and 1903(g) of the Social Security Act (42 U.S.C. 1302 and 1396 b(g)).

Subpart J—Penalty for Failure To Make a Satisfactory Showing of an Effective Institutional Utilization Control Program

§ 456.650 Basis, purpose, and scope.

(a) *Basis.* Section 1903(g) of the Social Security Act requires that Federal financial participation (FFP) for long-stay inpatient services at a level of care be reduced, by a specified formula, for any quarter in which a State fails to make a satisfactory showing that it has an effective program of utilization control for that level of care.

(b) *Purpose.* This subpart specifies:

(1) What States must do to make a satifactory showing;

(2) How the Administrator will determine whether reductions will be imposed; and

(3) How the required reductions will be implemented.

(c) *Scope.* The reductions required by this subpart do not apply:

(1) To services provided under a contract with a health maintenance organization; and

(2) To services provided in facilities for which a Professional Standards Review Organization (PSRO) has assumed binding review responsiblity. (See § 463.27 of this chapter.)

§ 456.651 Definitions.

For purposes of this subpart—

"Level of care" means one of these four types of inpatient services: hospital, mental hospital, skilled nursing facility, or intermediate care facility.

"Long-stay services" means services provided to a recipient after a total of 60 days of inpatient stay (90 in the case of mental hospital services) during a 12-month period beginning July 1, not counting days of stay paid for wholly or in part by Medicare.

"Mental hospital" includes any inpatient psychiatric services provided to recipients under 21 by a psychiatric facility or program accredited by the Joint Commission on Accreditation of Hospitals.

§ 456.652 Requirements for an effective utilization control program.

(a) *General requirements.* In order to avoid a reduction in FFP, a State must make a satisactory showing to the Administrator, in each quarter, that it

has met the following requirements for each recipient:

(1) Physician certification and recertification of the need for inpatient care, as specified in §§ 456.60, 456.160, 456.260 and 456.360.

(2) A plan of care established and periodically reviewed and evaluated by a physician, as specified in §§ 456.80, 456.180, 456.280, and 456.380.

(3) A continuous program of utilization review under which the admission of each recipient is reviewed or screened in accordance with section 1903(g)(1)(C) of the Act; and

(4) A regular program of medical and independent professional reviews, including medical evaluation, and an annual on-site review of the care of each recipient, as specified in §§ 456.170, 456.180, 456.270, and 456.280, and subpart I of this part.

(b) *Annual on-site review requirements.* (1) An agency will meet the quarterly on-site review requirements of paragraph (a)(4) of this section for a quarter if it completes on-site reviews of each recipient in every facility by the end of the quarter in which a review is required under paragraph (b)(2) of this section.

(2) An on-site review is required in a facility by the end of a quarter if the facility entered the Medicaid program during the same calendar quarter 1 year earlier or has not been reviewed since the same calendar quarter 1 year earlier. If there is no Medicaid recipient in the facility on the day a review is scheduled, the review is not required until the following quarter.

(3) If a facility is not reviewed in the quarter in which it was required to be reviewed under this paragraph, it will continue to require a review in each subsequent quarter until the review is performed.

(4) The requirement for an on-site review in a given quarter is not affected by the addition or deletion of a level of care.

§ 456.653 Acceptable reasons for not meeting requirements for annual on-site review.

The Administrator will find a State's showing satisfactory, even if it failed to meet the annual review requirements of § 456.652(a)(4), if—

(a) The State completed reviews in—

(1) At least 98 percent of all facilities in which a review was required by the end of the quarter; and

(2) All facilities with 200 or more certified Medicaid beds in which a review was required by the end of the quarter; and

(b) The State either—

(1) Exercised good faith and due diligence by making attempts to complete the required reviews that would have succeeded but for events beyond the control of the State which could not reasonably have been anticipated; or

(2) Failed to meet the standard in paragraph (a)(1) of this section for technical reasons, but completed all required reviews within 30 days after the end of the quarter in which they were required to be made. Technical reasons are circumstances within a State's control.

§ 456.654 Requirements for content of showings and procedures for submittal.

(a) A State's showing for a quarter must—

(1) Include a certification by the Medicaid agency that the requirements of § 456.652(a) (1) through (4) were met during the quarter for each level of care or, if applicable, a certification of the reasons the annual on-site review requirements of § 456.652(a)(4) were not met in any facilities;

(2) List, by level of care, all mental hospitals, skilled nursing facilities, intermediate care facilities, and any other facilities providing inpatient psychiatric facility services participating in Medicaid any time during the 12-month period ending on the last day of the quarter. Each facility listed should be identified by name, address and provider number.

(3) List the beginning and ending dates for the provider agreement and supply a copy of the provider agreement for each facility entering or leaving the program anytime during the 12-month period ending on the last day of the quarter;

(4) List all dates of on-site reviews completed by review teams anytime during the 12-month period ending on the last day of the quarter;

(5) List all facilities in which an on-site review was required but not conducted, by name, address and provider number;

(6) List for each on-site review in a mental hospital, a skilled nursing facility that is an institution for mental disease, or a facility that provides inpatient psychiatric facility services, the name and qualifications of one team member who is a physician; and

(7) List for each on-site review in a skilled nursing facility that is not an institution for mental disease, or an intermediate care facility, the name and qualifications of one team member who is either a physician or registered nurse.

(b) The quarterly showing must be in the form prescribed by the Administrator.

(c) The quarterly showing must be postmarked or received within 30 days after the close of the quarter for which it is made, unless the State demonstrates good cause for later submittal and the showing is postmarked or received within 45 days after the close of the quarter. Good cause means unanticipated circumstances beyond the State's control.

§ 456.655 Validation of showings.

(a) The Administrator will periodically validate showings submitted under § 456.654. Validation procedures will include on-site sample surveys of institutions and surveys at the State agencies.

(b) The Administrator will not find a State's showing satisfactory if the information obtained through his validation procedures demonstrates that any of the requirements of § 456.652(a) (1) through (4) were not met during the quarter for which the showing was made.

§ 456.656 Reductions in FFP.

(a) If the Administrator determines that a State's showing does not meet any of the requirements of this subpart, he will give the State 30 days notice before making the required reduction.

(b) If the Administrator determines that a showing for any quarter is unsatisfactory on its face, he will make the required reduction in the grant award based on the Quarterly Statement of Expenditures for that quarter. (See 45 CFR 201.5(a)(3).)

(c) The Administrator will complete any validation, make a determination whether a showing is satisfactory, and notify the State agency of any required reduction in FFP within 9 months after the end of the quarter for which the showing was made. Any required reduction will be made by amending the current grant award or by adjusting the grant award for the next quarter.

(d) The State may request reconsideration of a reduction in accordance with the procedures specified in 45 CFR Part 16.

§ 456.657 Computation of reductions in FFP.

(a) For each level of care, and for each quarter for which a satisfactory showing is not made, the amount of the reduction in FFP is computed as follows:

(1) The number of recipients receiving services at that level of care during that quarter in facilities in which the requirements of this subpart were not met is divided by the total number of recipients receiving services at that level of care in facilities for which a showing was required to be made under this subpart. If any of the requirements specified in § 456.652(a) (1)-(4) were not met for any recipient in a facility, the reduction will be computed on the total number of recipients in that facility.

(2) The fraction obtained in paragraph (a)(1) of this section is multiplied by one-third;

(3) The product obtained in paragraph (a)(2) of this section is multiplied by the Federal Medical Assistance Percentage (FMAP);

(4) The product obtained in paragraph (a)(3) of this section is multiplied by the State payments for long-stay services furnished during the quarter at that level of care.

(b) If any of the data required to compute the amount of the reduction in FFP are unavailable, the Administrator will substitute an estimate. If data on the number of recipients in individual facilities are not available, the fraction specified in paragraph (a)(1) of this section will be estimated by dividing the number of facilities at the level of care in which the requirements were not met by the total number of facilities providing that level of care for which a showing is required to be made under this subpart.

(Secs. 1102 and 1903(g) of the Social Security Act; (42 U.S.C. 1302 and 1396 b(g)))
(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: August 31, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: October 18, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-30478 Filed 10-31-78; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Public Discussion of Proposed Rule and Other Positions To Be Advanced by the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Announcement of public meeting to discuss proposed rule and other U.S. positions regarding Endangered Species Convention.

SUMMARY: The Service is responsible for developing, after consultation with the interested public, the States, and other government and non-governmental organizations, the U.S. position on agenda items to be considered at the second meeting of the conference of the parties to the convention on International Trade in Endangered Species of Wild Fauna and Flora (Endangered Species Convention). The second meeting of the Conference of the parties will take place March 19-30, 1979, in San Jose, Costa Rica. In preparation for the Costa Rica meeting the Service will hold a public meeting on November 28, 1978, to take comments on a proposed rule on the status of native species protected by the Endangered Species Convention; to introduce the individuals recommended to serve as advisors to the U.S. Representative to the Costa Rica meeting; to report on the status of certain agenda items; and to take comments on specific positions being developed for the meeting in Costa Rica.

DATES: The public meeting will be held from 10 a.m. to 12:30 p.m. on November 28, 1978.

ADDRESSES: Meeting location: Room 5160 of the Main Interior Building, 18th and C Streets NW., Washington, D.C. Those planning to attend the meeting are asked to so inform Joan Caton, Chief, Management Operations Branch, Federal Wildlife Permit Office, Washington, D.C. 20240 not later than November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Please be advised that the Federal Wildlife Permit Office is moved to office space in Arlington, Va., on October 7, 1978. However, the mailing address for the office remains as indicated above. Further information on the meeting planned for November 28 can be obtained by calling Miss Caton at 703-235-2418.

Dated: October 27, 1978.

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 78-30846 Filed 10-31-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR 611]

Proposed Foreign Fee Surcharge

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of proposed amendment to foreign fee schedule.

SUMMARY: Pub. L. 95-376 amended section 10 of the Fishermen's Protective Act by creating the Fishing Vessel and Gear Damage Compensation Fund. This fund will compensate U.S. fishermen whose vessels are damaged or destroyed by foreign vessels while being used in fisheries in the fishery conservation zone (FCZ). It will also compensate U.S. fishermen whose gear is lost or destroyed by any vessel or by Acts of God while being employed in the FCZ. The Fund is to be created by the imposition of a surcharge of any amount up to 20 percent on all foreign fishing fees. It is estimated that losses covered by the Act may exceed $3 million per year. It is also estimated that the total foreign fees which will be received in 1979 for fishing activities in the FCZ will be approximately $17.5 million. Twenty percent of that sum would be $3.5 million. Thus it is proposed that the initial surcharge for 1979 be fixed at 20 percent.

DATES: Comments on this proposal may be submitted until November 20, 1978.

ADDRESS: Comments may be submitted to Mr. Michael Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: 202-634-7496.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathryn Hensley, Financial Assistance Specialist 202-634-7496.

SUPPLEMENTARY INFORMATION: Pub. L. 95-376 (Act), signed on September 18, 1978, amended section 10 of the Fishermen's Protective Act (22 U.S.C. 1977, et seq.) by establishing the Fishing Vessel and Gear Damage Compensation Fund (Fund). The Fund will compensate U.S. fishermen for loss or damage to fishing vessels, not otherwise covered by insurance, caused by foreign vessels. It will also compensate U.S. fishermen for gear losses caused by other vessels (U.S. or foreign) or by Acts of God. The Act states that "the Secretary [of Commerce] shall impose a surcharge" upon all foreign fishing fees paid under the Fishery Conservation and Management Act of 1976 after 1978. The Act limits the surcharge to 20 percent of foreign fishing fees. In determining the amount of the surcharge, the Secretary has considered the claims expected, and recommends that a 20-percent surcharge be imposed for initial capitalization of the Fund. In order to arrive at the value of claims which might be submitted under the new program, the National Marine Fisheries Service regional offices were requested to provide estimates of what the potential annual loss could be. Their computations predicted a potential annual loss of nearly $6 million. Taking into account depreciation and other factors, the actual compensation to fishermen from the Fund could result in $2.5 to $3.0 million annually. Compensation will be made only after prescribed criteria have been met: e.g. application within 60 days of the incident; payment of an administrative fee; inventory or other proof of ownership of gear; affidavits on location and marking of gear; previous report to the Coast Guard of gear deployment if required by regulation; and other re-

quirements as may be established by regulation. The 20-percent surcharge is imposed solely for the purpose of the Fund. Fees paid as a result of this action by foreign nations are nonrefundable.

The Assistant Administrator for Fisheries has determined that:

1. This action does not require the preparation of an economic impact analysis under Executive Orders 11821 and 11949, and OMB Circular A-107; and

2. This action does not require a regulatory impact analysis.

The Assistant Administrator has approved this document pursuant to delegation of authority from the Secretary.

Signed at Washington, D.C. this 24th day of October, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-30826 Filed 10-31-78; 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.

[3410-07-M]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

LOAN AND GRANT MAKING

Fiscal Year 1979 Allocation

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration gives notice that following approval of the Appropriation Act for fiscal year 1979, the agency has determined how funds are to be allocated to each State for each program.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration is publishing its "Administrative Notice on Fiscal Year 1979 Allocations" as part of its ongoing attempt to keep the public informed of its actions. This notice provides the amount of funds which the agency has available for rural development in various programs and outlines the methods used in determining how the funds are to be allocated. The agency is attempting to support, within its limited resources, local development efforts and provide the residents of small towns and rural areas an equitable share of the public and private resources. The Farmers Home Administration normally makes minor changes to this notice in the course of a year. Any amendments to the funding levels during the fiscal year may be obtained from any FmHA State Office. The funds available and the formula used for their distribution within the four major program areas of community programs, business and industrial program, housing programs and farmer programs are as prescribed in the following Administrative Notice No. 282(440) dated October 12, 1978.

Dated: October 24, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FmHA AN No. 282(440)]

U.S. DEPARTMENT OF AGRICULTURE,
FARMERS HOME ADMINISTRATION,
Washington, D.C., October 12, 1978.

Subject: Fiscal Year 1979 allocation.
To: All State Directors, FmHA.

The Appropriation Act for fiscal year 1979 has been approved. Your programs will be monitored to determine that full consideration is given to the equal opportunity objectives of this agency. FmHA targeting policies are to support local development efforts and provide to the residents of small towns and rural areas an equitable share of public and private resources.

The allocation formulas have been designed to target funds to States in relation to rural population, households in poverty, per capita income, etc. Every effort should be made to target funds to distressed communities and rural areas which have significant populations of poor and disadvantaged persons.

Funds are allocated to States in accordance with the following attachments.

Attachment A—Community programs.
Attachment B—Business and industrial loan program.
Attachment C—Housing programs.
Attachment D—Farmer programs.

GORDON CAVANAUGH,
Administrator.

Expiration Date: September 30, 1979.

COMMUNITY PROGRAMS

The community programs allocation formula has been designed to target funds to States in relation to rural population and households in poverty.

State directors will make every effort to target funds to those communities with the greatest financial need having a large portion of their population with low incomes. Due consideration will be given to State development strategies and plans of substate planning districts in selecting projects for funding.

Attachment A-1 shows allocations of loan and grant authority for fiscal year 1979 for community programs. In order that funds may be obligated as they become available, you should plan to have obligating documents for all projects in the Finance Office as soon as orderly work schedules will permit.

You may submit obligating documents for community facility and water and waste disposal projects in excess of your allocation. However, requests above your allocation will be honored only if they can be absorbed within the total amount of funds available later in the fiscal year.

If the allocations shown on attachment A-1 exceeds the demand in your State, please advise the National Office immediately so that any funds not needed can be transferred to another State with an immediate need. The formula for distribution of funds has not changed for fiscal year 1979. The National Office reserve for all funds is approximately 5 percent for loans and 10 percent for grants. In addition, the National Office has retained control of $25 million in CF loan funds for Community Health Centers (CHC) projects approved under the Memorandum of Understanding between HEW and USDA. These CHC funds will be allocated on a case by case basis upon request by the State director. For additional information on the method of allocation see Attachment A-2.

1979 BUDGET

The budget for fiscal year 1979 is based on the following levels of authority:

Water and waste disposal loans—$900 million.
Community facility loans—$250 million.
Water and waste disposal development grants—$282.5 million.
Industrial development grants—$10 million.
Watershed loans—$25.6 million.
Flood prevention loans—$0.4 million.
Resource conservation and development loans—$4 million.

I. *Water and waste disposal loans and development grants, community facility loans and industrial development grants.* The allocations are shown in Attachment A-1. Written requests which were received for additional fiscal year 1978 funds will not be given further consideration. However, if additional funds are needed in fiscal year 1979 the request should be made in writing.

II. *Watershed.* Funds for watersheds will be allocated on an individual-case basis. Request funds for watershed applications as soon as you determine that a loan may be made. Applicants must be advised that their applications will be processed subject to the availability of funds. Obligating requests may be submitted to the Finance Office when the loan is ready for approval.

III. *Flood prevention loans (Pub. L. 534) and resource conservation and development loans.* States that are authorized to process Public Law 534, flood prevention loans and RC&D loans may submit obligating requests to the Finance Office when the loan is ready to be approved.

IV. *Pooling of unobligated funds.* Tentative Plans for pooling are as follows:

1. On March 30, 1979, all funds from the first half of your fiscal year 1979 allocation that are unobligated will be pooled. You should plan to have obligating documents in the Finance Office for at least one-half (you may send more) of your fiscal year 1979 allocation by March 30, 1979.

You will not lose fiscal year 1979 funds provided you have obligating documents in the Finance Office for *at least* one-half of your annual allocation by the end of the second quarter. Pooled funds will revert to National Office control.

2. On August 10, 1979, all funds remaining unobligated on that date will be pooled. Pooled funds will revert to National Office control.

Allocations for the programs to which Attachment A pertains are on an annual basis; however, FmHA receives its apportionment of loan and grant funds quarterly for community programs. Therefore, funds will continue to be allotted to the Finance Office on a quarterly basis to continue total obligations. Obligations will be made in the order of requests. If States collectively request obligations greater than one-fourth of the National allocations, there may not be sufficient funds to honor all obligating documents submitted in a a particular quarter. In such cases, funds will be obligated when available, ordinarily soon after the start of the next quarter.

[3410-07-C]

COMMUNITY PROGRAMS

Allocations for Fiscal 1979
(in thousands)

STATE	Water and Waste Disposal		Community Facility	Industrial Development
	Loans	Grants	Loans	Grants
ALABAMA	28,635	8,505	7,105	280
ALASKA	1,405	430	360	35
ARIZONA	4,990	1,495	1,250	80
ARKANSAS	21,830	6,485	5,420	210
CALIFORNIA	28,120	8,350	6,975	235
COLORADO	7,220	2,155	1,800	90
DELAWARE	1,965	595	500	35
MARYLAND	9,885	2,945	2,460	95
FLORIDA	26,475	7,865	6,570	210
GEORGIA	31,315	9,300	7,770	320
HAWAII	1,180	365	310	40
GUAM	1,030	320	270	-
PAC. TRUST TERR.	2,960	890	745	-
AM. SAMOA	600	190	165	-
IDAHO	4,725	1,415	1,185	80
ILLINOIS	26,865	7,980	6,665	255
INDIANA	21,375	6,350	5,305	225
IOWA	18,155	5,395	4,510	200
KANSAS	12,075	3,595	3,005	155
KENTUCKY	29,805	8,850	7,395	295
LOUISIANA	25,870	7,685	6,420	255
MAINE	7,210	2,150	1,800	105
MASSACHUSETTS	8,560	2,550	2,135	100
CONNECTICUT	5,620	1,680	1,410	75
RHODE ISLAND	1,205	370	315	30
MICHIGAN	26,450	7,855	6,565	245
MINNESOTA	18,055	5,365	4,485	215
MISSISSIPPI	27,210	8,080	6,750	290
MISSOURI	26,280	7,805	6,520	235
MONTANA	4,630	1,385	1,160	75
NEBRASKA	9,140	2,725	2,280	115
NEW MEXICO	5,460	1,635	1,365	95
NEW JERSEY	7,970	2,375	1,990	80
NEW YORK	29,435	8,740	7,300	260
VIRGIN ISLANDS	960	300	255	25

COMMUNITY PROGRAMS

Allocations for Fiscal 1979
(in thousands)

STATE	Water and Waste Disposal		Community Facility	Industrial Development
	Loans	Grants	Loans	Grants
NORTH CAROLINA	41,665	12,365	10,330	425
NORTH DAKOTA	4,485	1,345	1,125	80
OHIO	29,310	8,705	7,270	315
OKLAHOMA	18,105	5,380	4,495	175
OREGON	9,455	2,815	2,355	110
PENNSYLVANIA	40,940	12,150	10,150	385
PUERTO RICO	31,580	9,375	7,835	340
SOUTH CAROLINA	23,065	6,855	5,725	250
SOUTH DAKOTA	5,775	1,725	1,445	90
TENNESSEE	29,925	8,885	7,425	300
TEXAS	49,460	14,675	12,260	420
UTAH	2,795	845	710	55
NEVADA	1,120	345	295	30
VERMONT	3,760	1,130	945	65
NEW HAMPSHIRE	3,745	1,125	940	60
VIRGINIA	24,620	7,315	6,110	265
WASHINGTON	11,370	3,385	2,830	120
WEST VIRGINIA	18,165	5,400	4,510	195
WISCONSIN	18,950	5,635	4,710	230
WYOMING	2,045	620	520	50
SUBTOTAL	855,000	254,250	212,500	9,000
RESERVE	45,000	28,250	37,500	1,000
GRAND TOTAL	900,000	282,500	250,000	10,000

EXPLANATION OF ALLOCATION

Loan funds for community facilities and water and waste disposal and funds for water and waste disposal development grants have been allocated among 50 States, Puerto Rico, Guam, American Samoa, Trust Territories of the Pacific and the Virgin Islands. Industrial development grant funds for Guam, American Samoa, and Trust Territories of the Pacific will be allocated as needed on a case basis from the National Office reserve. Funds have been allocated in the following manner:

1. The Administrator has withheld a reserve of the funds appropriated or authorized to allow for subsequent allocations or adjustments, emergencies and otherwise as he may deem appropriate.

2. For each appropriation or authorization, $20,000 has been allocated to each State as a base.

3. The National Office has retained control of $25 million in CF loan funds for projects approved under the Memorandum of Understanding between HEW and USDA.

4. The remainder has been allocated by formula.

a. The formula for allocating industrial development grants considers (1) each State's portion of the Nation's nonmetropolitan population outside cities of 25,000 or more, plus half of the metropolitan population outside urbanized areas, plus half of the population of cities more than 25,000 located outside metropolitan areas, and (2) the rural per capita income of the State as compared to the rural per capita income of the Nation. The two elements, rural population and per capita income, are weighted two to one respectively.

b. Grants for water and waste disposal and loans for water and waste disposal and community facilities have been allocated in accordance with a formula which considers each State's proportion of the U.S. population in open country and towns of less than 10,000 outside urban areas and the number of households in poverty in rural areas and cities located outside rural areas with populations of 2,500 to 10,000 persons. The two elements, rulal population and households in poverty, were weighted one to two respectively.

[3410-07-C]

FACTORS USED IN ALLOCATING FUNDS - COMMUNITY PROGRAMS

State	Water and Waste Disposal Loans & Grants and Community Facility Loans	Industrial Development Grants
Alabama	.03351	.0327
Alaska	.00162	.0019
Arizona	.00582	.0073
Arkansas	.02554	.0240
California	.03291	.0273
Colorado	.00843	.0084
Delaware	.00228	.0020
Maryland	.01155	.0095
Florida	.03098	.0238
Georgia	.03665	.0377
Hawaii	.00136	.0027
Guam	.00118	-
Pacific Trust Terr.	.00344	-
American Samoa	.00068	-
Idaho	.00551	.0075
Illinois	.03144	.0295
Indiana	.02501	.0258
Iowa	.02124	.0227
Kansas	.01412	.0167
Kentucky	.03488	.0348
Louisiana	.03027	.0297
Maine	.00842	.0105
Massachusetts	.01000	.0099
Connecticut	.00656	.0067
Rhode Island	.00139	.0012
Michigan	.03095	.0285
Minnesota	.02112	.0243
Mississippi	.03184	.0337
Missouri	.03075	.0273
Montana	.00540	.0070
Nebraska	.01068	.0122
New Jersey	.00931	.0077
New Mexico	.00637	.0095
New York	.03445	.0301
Virgin Islands	.00110	.0009
North Carolina	.04877	.0509
North Dakota	.00523	.0074
Ohio	.03430	.0368
Oklahoma	.02118	.0193
Oregon	.01105	.0114
Pennsylvania	.04792	.0458
Puerto Rico	.03696	.0400
South Carolina	.02699	.0290
South Dakota	.00675	.0084
Tennessee	.03502	.0351
Texas	.05790	.0502
Utah	.00325	.0043
Nevada	.00429	.0012
Vermont	.00438	.0055
New Hampshire	.00436	.0052
Virginia	.02881	.0310
Washington	.01329	.0124
West Virginia	.02125	.0222
Wisconsin	.02217	.0266
Wyoming	.00237	.0038
Totals	1.00000	1.0000

BUSINESS AND INDUSTRIAL LOAN ALLOCATIONS

The 1979 fiscal year budget is based on $1,100,000,000 which has been allocated as shown on page 2 of Attachment B. The allocations distributed to the states will be the same as last fiscal year. The National Office Reserve has been increased to $200,000,000 which will allow for subsequent authorizations, emergencies, funding for a backlog of applications, additional reserve of $5,770,000 for Alaska, and funding Guam, American Somoa, Commonwealth of the Northern Mariana Islands, Trust Territories of the Pacific Islands and for other uses as the Administrator may deem appropriate.

Our tentative plans for pooling are:

March 30, 1979—All funds remaining unobligated as of March 30, 1979, from one-half of your total allocation for the year. You should plan to have obligating documents in the Finance Office for at least one-half (you may send more) of you fiscal year allocation prior to March 30, 1979. Pooled funds will revert to National Office control.

You should keep in mind that even though these allocations of guarantee authority are on an annual basis, we receive the apportionment of guarantee authority quarterly If many states obligate more than one-fourth of their annual allocation in a quarter, it follows that there may not be sufficient guarantee authority to honor all obligating documents in that quarter. In this instance, the Finance Office holds the obligating documents until the next quarter's allocation is made.

On *August 10, 1979,* all funds remaining unobligated on that date will be pooled. Pooled funds will revert to National Office control.

You will be advised on FmHA's plans for targeting funds to the maximum extent possible toward disadvantaged people and distressed communities.

Funding authority restricts financing facilities only on a guaranteed basis.

[3410-07-C]

BUSINESS AND INDUSTRIAL LOAN ALLOCATIONS
FOR FISCAL YEAR 1979

ALABAMA	$29,415,000
ALASKA	1,730,000
ARIZONA	6,580,000
ARKANSAS	21,595,000
CALIFORNIA	24,560,000
COLORADO	7,570,000
DELAWARE	1,820,000
DISTRICT OF COLUMBIA	
MARYLAND	8,560,000
FLORIDA	21,415,000
GEORGIA	33,910,000
HAWAII	2,445,000
*GUAM	
*AMERICAN SAMOA	
*COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS	
*TRUST TERRITORIES OF THE PACIFIC ISLANDS	
IDAHO	6,760,000
ILLINOIS	26,540,000
INDIANA	23,215,000
IOWA	20,425,000
KANSAS	15,030,000
KENTUCKY	31,305,000
LOUISIANA	26,720,000
MAINE	9,460,000
MASSACHUSETTS	8,920,000
CONNECTICUT	6,045,000
RHODE ISLAND	1,100,000
MICHIGAN	25,640,000
MINNESOTA	21,865 000
MISSISSIPPI	30,315,000
MISSOURI	24,560,000
MONTANA	6,310,000
NEBRASKA	10,990,000
NEW JERSEY	6,940,000
NEW MEXICO	8,560,000
NEW YORK	27,080,000
VIRGIN ISLANDS	830,000
NORTH CAROLINA	45,780,000
NORTH DAKOTA	6,670,000
OHIO	33,100,000
OKLAHOMA	17,370,000
OREGON	10,270,000
PENNSYLVANIA	41,190,000
PUERTO RICO	35,980,000
SOUTH CAROLINA	26,090,000
SOUTH DAKOTA	7,570,000
TENNESSEE	31,575,000
TEXAS	45,150,000
UTAH	3,885,000
NEVADA	1,100,000
VERMONT	4,965,000
NEW HAMPSHIRE	4,695,000
VIRGINIA	27,890,000
WASHINGTON	11,165,000
WEST VIRGINIA	19,980,000
WISCONSIN	23,930,000
WYOMING	3,435,000
NATIONAL RESERVE	200,000,000
TOTAL	1,100,000,000

*Funding will be made from the National Reserve.

RURAL HOUSING PROGRAMS

Rural housing loan and grant making will be continued for the fiscal year beginning October 1, 1978, in strict compliance with the following:

I. *General:*

A. The interest rate for all rural housing loan programs for FY 1979 will be the same as in effect at the end of fiscal year 1978. See Exhibit B of FmHA Instruction 440.1 for current rates.

B. Funds are allocated to each State on the basis of housing needs. The criteria considered and the formulas by which allocations were determined are outlined in Attachment C-1 to the AN. Funds available for each program are indicated in the following paragraphs and attachments.

C. Priority will be given to providing assistance to serve areas having the greatest housing needs and to reach lower-income tenants and applicants. We will provide, to each State director, information by county, on population, substandard housing, and income. This information is intended to assist in identifying those areas where increased emphasis must be placed on assisting lower income families.

D. State Directors are to carry out balanced loan making and servicing programs. In some States more emphasis should be placed on borrower records and accounting procedures for RRH and LH loans especially where rent increases, interest credit or rental assistance is involved. Loan servicing of single family housing accounts must be continued following the guidelines set forth in FmHA AN 249(451) dated March 16, 1978.

E. State directors may not switch funds between subsidized and nonsubsidized categories. Also, State directors serving more than one State may not shift allocations between States within their jurisdiction.

F. State directors are responsible for administering the rural housing RH programs within their State in strict compliance with applicable procedures and this AN. Dockets should not be processed for any program unless funds will likely be available for the loan or grant. The National Office will maintain only a small reserve of funds for the section 502, 504 loan and grant and section 515 programs; therefore, the Administrator will consider requests for additional funds only on a hardship case basis. To assure that funds are utilized, all funds available but not obligated during the first half of fiscal year 1979 will be pooled as of COB, March 30, 1979. Furthermore, all second-half funds available but not obligated will be pooled as of COB, August 10, 1979.

G. For section 502 insured RH, section 502 guaranteed RH, and section 504 RH loans and grants, the cumulative amounts to be submitted in each category for obligation each quarter will not exceed the following percentage of the State's annual allocation as shown in attachments C-2 and C-3, as appropriate:

First quarter, 35 percent.
Second quarter, 60 percent.
Third quarter, 85 percent.
Fourth quarter, 100 percent.

For section 515 State directors will not exceed 60 percent of their total year allocation as shown in Attachment C-4, prior to March 31 without prior written approval of the National Office.

State directors will take actions necessary to insure these allocations are not exceeded.

II. *Section 502 Insured RH Loans:*

A. Transfer of existing section 502 loans by assumption (465.1 paragraph XVII) will be used in all practical cases in order to conserve loan funds and assist the greatest number of applicants. Subsequent loans may be made to pay for equity and finance needed repairs or improvements.

B. Conditional commitments will not be issued unless the county office can reasonably expect to approve and fund loans for those conditional commitments within 3 months after the dwellings are completed.

C. Action should be taken to insure that funds will be available for loans for hardship cases and to those participating in self-help projects to prevent delays in the construction of homes. Priority processing will be provided for self-help housing applications.

D. Weatherization loans made by public utilities will be obligated from the National Office reserve established for this purpose.

III. *Section 502 Guaranteed Above Moderate RH Loans:*

A. Upon receipt of revised FmHA Instruction 1980-D, section 502, guaranteed loan authority may be implemented.

B. Action should be taken to insure that lenders are familiarized and encouraged to participate in the guaranteed RH loan program. Training sessions should be held, as appropriate, with lenders. All applicants who appear to be eligible for a guaranteed loan should be referred to lenders willing to participate in the program.

IV. *Section 504 RH Loans and Grants.* Overall use of section 504 loan and grant funds increased significantly last fiscal year. However, some States are still showing only a small amount of activity in this program area. With increased funding for the fiscal year it is very important that all States assist families with 504 needs. FmHA offices should especially strive to cooperate with organizations operating federally financed rehabilitation projects.

V. *Section 515 RRH Loans:*

A. Attachment C-4 of this AN indicates the annual allocation of subsidized and nonsubsidized RRH funds for fiscal year 1979. The level of funding in fiscal year 1979 represents a substantial increase when compared to the past obligation history in the 515 program.

B. The objective of the RRH program is to provide rental housing to persons with low and moderate incomes and for senior citizens. In recent years, a large percentage of RRH projects have been developed to meet the housing needs of senior citizens. In many areas there is also a need for family-type units which is not being met. In the past very little effort has been made to serve the housing needs of large families although market data indicated such a need. Therefore, a priority will be extended to projects providing family-type units, particularly those serving very low income people. State Directors shall see that this policy is implemented.

C. Any RRH project that will receive interest of credit or rental assistance from the FmHA, shall be identified as a subsidized loan. This includes single track and dual track loans involving section 8 rental assistance when an interest reduction is given in accordance with exhibit 0 to FmHA Instruction 444.5. You should be sure that form FmHA 444-5, "Multiple Housing Fund Analysis," is properly completed to assure correct identification of funds by type and, until the form is revised, indicate the approval date on the bottom of the form. Also show the following at the bottom of the form for projects involving section 8:

Number of Section 8 Units ———————
From HUD set-aside for fiscal year ———————
Single track ———————
Dual track ———————

VI. *Units for the HUD section 8 set-aside program:*

A. We anticipate receiving a set-aside from HUD of 10,000 section 8 units for use in fiscal year 1979 under the single track processing. Attachment C-5 of this AN is a tentative distribution of section 8 units by Region and State. As of the date of this AN, we have not received written approval of the number or distribution from HUD, therefore, it is subject to change.

B. The National Office is negotiating with HUD to obtain more flexibility in the type of units and location of projects obtaining section 8 assistance. You should, to the extent possible, assist HUD in meeting the objective of utilizing the section 8 program to provide more family units rather than units for the elderly.

VII. *Rental assistance (RA) units for RRH and LH programs:*

A. Requests for the obligation of rental assistance units for existing and new construction which were submitted to the finance office prior to October 1, 1978, shall be obligated from the National reserve and will not be deducted from the respective States' fiscal year 1979 RA allocation.

B. FmHA has been allocated 23,000 units for rental assistance for fiscal year 1979. Attachment C-6 is the distribution of RA units for existing and new construction by State for fiscal year 1979. The distribution of RA units has been made in accordance with the same formula used in allocating section 515 funds to the States. There is no separate allocation for the labor housing program this fiscal year. Units are to be allocated to LH and RRH projects on the same basis in accordance with exhibit R to FmHA Instruction 444.5. However, a National Office reserve of approximately 10,000 units have been maintained for existing units. States that have obligated all of their existing units may request additional existing units from the National Office reserve.

C. All new requests for rental assistance units to the finance office made after October 2, 1978, must be made on form FmHA 444-26, "Request for Obligation of Rental Assistance." Exhibit R-4 to FmHA Instruction 444.5 will no longer be used. Refer to Special Procedure Notice dated September 28, 1978, for additional clarification. In addition, the dollar amount that will be indicated by the finance office in section V of form FmHA 444-26 shall be inserted in section 10 of form FmHA 444-27, "Rental Assistance Agreement." Exhibit R-2 to FmHA Instruction 444.5 shall no longer be used. About 500 copies of each form were sent to each State office on September 28, 1978. Additional copies may be requested from the finance office, St. Louis, Mo.

D. State directors may neither switch RA units between States under their jurisdiction nor switch new and existing units without the written consent of the National Office.

VIII. *Section 514 LH Loans.* A total of $38 million is available. Each State Director should use its labor housing authority to its fullest extent. Funds will not be allocated to

individual States at this time, and loans within your approval authority may be submitted directly to the finance office for funding.

IX. *Section 516 LH Grants:*

A. Grant making activities may resume in accordance with FmHA Instruction 444.6. A total of $33 million is available for LH grants nationally. State directors are again requested to examine the need for this type of assistance within their States and to inform county supervisors in writing to contact applicants, and prospective applicants. Those organizations wishing to be considered, will be requested to furnish current information to the FmHA. Applicants should be informed that any cost involved in obtaining the information will be at their own expense, without assurance that a project will be funded by FmHA.

B. State directors should review each application and make a preliminary determination as to eligibility. Priority for funding shall be determined by each State director in accordance with FmHA Instruction 444.6, paragraph VII A. Attachment C-7 of this AN should be completed for each loan application determined to be eligible to assist in determining the priority for funding. The completed exhibits should be submitted to the National Office along with a list showing the order in which funding is recommended. This information must be received in the National Office by December 31, 1978, to assure consideration for funding from fiscal year 1979 grant funds. Applications meeting all applicable eligibility requirements contained in paragraph IV of FmHA Instruction 444.6 should be submitted.

X. *Section 523 TA Grants.* You may continue processing and approving section 523 TA Grants in accordance with FmHA Instruction 1933-I.

XI. *Section 524 Insured and Section 523 Direct RHS Loans.* Funds are now available. Loan making operations may continue in accordance with FmHA Instruction 444.8.

ALLOCATION OF RH PROGRAM FUNDS—FISCAL YEAR 1979

The following criteria identifies essential elements that are considered necessary to allocate rural housing funds to various States on the basis of housing needs.

Factor A: State's percentage of national rural population.
Factor B: State's percentage of national rural population living in dwellings which lack complete plumbing and/or are crowded (substandard).
Factor C: State's percentage of national rural population below poverty level.
Factor D: Cost indicator (average cost of new dwelling and site, factored by population).
Factor E: State's percentage of national rural population 62 years of age and over.
Factor F: State's percentage of national rural households with incomes between $15,000 and $20,000.

BASIC FORMULA ALLOCATION

Section 502 rural housing and section 515 rural rental housing.

$(A\times.30+B\times.30+C\times.30+D\times.10)\times$ funds available = State allocation

Section 504 loans.

$(B\times.50+C\times.50)\times$ funds available = State allocation

Section 504 grants.

$(B\times.33+C\times.33+E\times.33)\times$ funds available = State allocation

Section 502 guaranteed above moderate loans.

$(A\times.30+B\times.30+F\times.30+D\times.10)\times$ funds available = State allocation.

Transition adjustment is necessary to temper large differences between previous program levels and a basic formula allocation. A 3-year transition period is used to allow individual States to adjust programs accordingly.

Fiscal year 1978 funds obligated adjusted to fiscal year 1979 funds available = (a)

Basic formula allocation = (b)

$a=(b-a)/3$ = adjusted allocation

Minimum allocations have been established for each loan and grant category.

[3710-07-C]

SECTION 502 RH LOAN AUTHORIZATIONS
(INSURED)
For Fiscal Year 1979
(in millions)

State	Subsidized	Nonsubsidized	Total
Alabama	$ 47	$ 25	$ 72
Alaska	12	8	20
Arizona	18	6	24
Arkansas	57	22	79
California	54	19	73
Colorado	23	12	35
Connecticut	11	4	15
Delaware	8	4	12
Florida	48	16	64
Georgia	49	27	76
Hawaii and American Samoa	12	6	18
Idaho	31	10	41
Illinois	52	22	74
Indiana	56	21	77
Iowa	51	28	79
Kansas	29	21	50
Kentucky	59	26	85
Louisiana	68	23	91
Maine	40	8	48
Maryland	20	9	29
Massachusetts	25	6	31
Michigan	51	29	80
Minnesota	38	21	59
Mississippi	69	26	95
Missouri	55	22	77
Montana	16	6	22
Nebraska	26	10	36
Nevada	8	4	12
New Hampshire	14	6	20
New Jersey	29	9	38
New Mexico	14	7	21
New York	70	28	98
North Carolina	97	53	150
North Dakota	19	7	26
Ohio	33	16	49
Oklahoma	55	22	77
Oregon	45	13	58
Pennsylvania	36	23	59
Rhode Island	8	4	12

SECTION 502 RH LOAN AUTHORIZATIONS
(INSURED)
For Fiscal Year 1979
(in millions)

State	Subsidized	Nonsubsidized	Total
South Carolina	$ 41	$ 21	$ 62
South Dakota	23	8	31
Tennessee	59	36	95
Texas	60	29	89
Utah	24	7	31
Vermont	24	6	30
Virginia	59	23	82
Washington	21	10	31
West Virginia	29	15	44
Wisconsin	47	17	64
Wyoming	8	5	13
Guam and Trust Territories	12	5	17
Puerto Rico	107	18	125
Virgin Islands	8	4	12
Subtotal	$1,975	$833	$2,808
HUD-USDA Demo.	10		10
Weatherization		10	10
Reserve	22	17	39
TOTAL	$2,007	$860	$2,867

SECTION 502 GUARANTEED RH LOANS, 504 RH LOAN, 504 RH GRANT

Authorizations for FY 1979

State	502 Guaranteed RH Loans (Millions)	504 RH Loans (Thousands)	504 RH Grants (Thousands)
Alabama	$ 11	$ 1,110	$ 490
Alaska	9	100	50
Arizona	5	100	140
Arkansas	8	1,260	710
California	12	300	370
Colorado	5	100	310
Connecticut	5	100	80
Delaware	5	100	90
Florida	11	310	290
Georgia	16	500	580
Hawaii and American Samoa	10	570	110
Idaho	5	100	80
Illinois	14	290	640
Indiana	12	210	230
Iowa	9	390	230
Kansas	6	100	160
Kentucky	13	1,140	620
Louisiana	10	700	560
Maine	5	450	440
Maryland	5	180	280
Massachusetts	5	100	130
Michigan	14	290	320
Minnesota	10	150	250
Mississippi	11	2,030	1,140
Missouri	10	550	650
Montana	5	100	50
Nebraska	5	100	140
Nevada	5	100	50
New Hampshire	5	100	120
New Jersey	8	100	180
New Mexico	5	410	710
New York	14	330	420
North Carolina	20	880	760
North Dakota	5	100	230
Ohio	17	380	430
Oklahoma	6	320	420
Oregon	5	290	320
Pennsylvania	18	550	550
Rhode Island	5	100	50

SECTION 502 GUARANTEED RH LOANS, 504 RH LOAN, 504 RH GRANT

Authorizations for FY 1979

State	502 Guaranteed RH Loans (Millions)	504 RH Loans (Thousands)	504 RH Grants (Thousands)
South Carolina	$ 10	$ 370	$ 370
South Dakota	5	100	120
Tennessee	13	350	340
Texas	18	1,360	1,040
Utah	5	100	50
Vermont	5	100	120
Virginia	11	260	330
Washington	7	170	170
West Virginia	8	390	280
Wisconsin	10	230	350
Wyoming	5	100	110
Guam and Trust Territories	5	1,300	180
Puerto Rico	12	2,130	1,210
Virgin Islands	5	100	50
Subtotal	$468	$22,150	$18,100
HUD-USDA Demo.		780	337
Reserve	32	1,070	563
TOTAL	$500	$24,000	$19,000

SECTION 515 - RURAL RENTAL HOUSING
FY 79 ALLOCATIONS (in thousands)

STATE	UNSUBSIDIZED	SUBSIDIZED	TOTAL
ALABAMA	1,450	26,950	28,400
ALASKA	250	4,400	4,650
ARIZONA	400	6,550	6,950
ARKANSAS	700	12,300	13,000
CALIFORNIA	1,900	35,300	37,200
COLORADO	300	4,700	5,000
DELAWARE	150	2,150	2,300
MARYLAND	400	7,250	7,650
FLORIDA	1,400	25,400	26,800
GEORGIA	950	17,250	18,200
HAWAII	200	3,600	3,800
GUAM, SAMOA & PAC. TRUST TER.	200	2,950	3,150
IDAHO	500	8,300	8,800
ILLINOIS	1,650	30,100	31,750
INDIANA	1,300	23,500	24,800
IOWA	1,400	25,350	26,750
KANSAS	700	12,400	13,100
KENTUCKY	750	13,900	14,650
LOUISIANA	650	11,800	12,450
MAINE	700	12,350	13,050
MASSACHUSETTS	400	7,400	7,800
CONNECTICUT	250	4,500	4,750
RHODE ISLAND	100	1,400	1,500
MICHIGAN	1,650	30,750	32,400
MINNESOTA	1,200	21,900	23,100
MISSISSIPPI	1,100	20,350	21,450
MISSOURI	1,200	22,200	23,400
MONTANA	300	5,000	5,300
NEBRASKA	500	9,350	9,850
NEW JERSEY	450	8,300	8,750
NEW MEXICO	400	7,050	7,450
NEW YORK	1,500	27,150	28,650
VIRGIN ISLANDS	100	1,400	1,500
NORTH CAROLINA	2,000	36,450	38,450
NORTH DAKOTA	500	9,000	9,500
OHIO	1,350	25,000	26,350
OKLAHOMA	500	9,050	9,550
OREGON	550	10,250	10,800
PENNSYLVANIA	1,450	26,300	27,750
PUERTO RICO	1,400	25,900	27,300
SOUTH CAROLINA	1,000	17,950	18,950
SOUTH DAKOTA	700	12,750	13,450
TENNESSEE	700	13,000	13,700
TEXAS	1,800	33,300	35,100

SECTION 515 - RURAL RENTAL HOUSING
FY 79 ALLOCATIONS (in thousands)

STATE	UNSUBSIDIZED	SUBSIDIZED	TOTAL
UTAH	160	2,990	3,150
NEVADA	200	3,600	3,800
VERMONT	200	3,500	3,700
NEW HAMPSHIRE	350	6,200	6,550
VIRGINIA	750	13,400	14,150
WASHINGTON	900	16,000	16,900
WEST VIRGINIA	700	12,500	13,200
WISCONSIN	1,350	25,100	26,450
WYOMING	300	5,350	5,650
HUD-FmHA DEMO. SET-ASIDE		7,500	7,500
HEW-FmHA DEMO. SET-ASIDE		6,000	6,000
NAT. OFFICE RESERVE	6,040	45,660	51,700
TOTAL	48,000	820,000	868,000

TENTATIVE SECTION 8/515 ALLOCATIONS FOR THE FARMERS HOME ADMINISTRATION (FmHA) FOR FISCAL YEAR 1979

BOSTON REGION

Connecticut	60
Massachusetts	100
New Hampshire	80
Vermont	50
Maine	160
Rhode Island	20
Subtotal	470

NEW YORK REGION

New Jersey	110
New York	360
Puerto Rico	340
Virgin Islands	20
Subtotal	830

PHILADELPHIA REGION

Delaware	30
Maryland	100
Pennsylvania	350
Virginia	180
West Virginia	160
Subtotal	820

ATLANTA REGION

Alabama	350
Florida	330
Georgia	230
Kentucky	180
Mississippi	270
North Carolina	480
South Carolina	230
Tennessee	170
Subtotal	2,240

CHICAGO REGION

Illinois	390
Indiana	310
Michigan	400
Minnesota	290
Ohio	330
Wisconsin	330
Subtotal	2,050

DALLAS REGION

Arkansas	160
Louisiana	160
New Mexico	90
Oklahoma	120
Texas	440
Subtotal	970

KANSAS CITY REGION

Iowa	330
Kansas	160
Missouri	290
Nebraska	120
Subtotal	900

DENVER REGION

Colorado	60
Montana	70
North Dakota	120
South Dakota	170
Utah	40
Wyoming	70
Subtotal	530

SAN FRANCISCO REGION

Arizona	90
California	460
Hawaii	50
Guam	30
Nevada	50
Subtotal	680

SEATTLE REGION

Idaho	110
Alaska	60
Oregon	130
Washington	210
Subtotal	510

TOTAL 10,000

RENTAL ASSISTANCE (RA) UNIT ALLOCATION FOR
FISCAL YEAR 1979

State	New	Existing
ALABAMA	198	262
ALASKA	32	43
ARIZONA	49	64
ARKANSAS	91	120
CALIFORNIA	260	342
COLORADO	35	46
DELAWARE	16	22
MARYLAND	53	71
FLORIDA	185	245
GEORGIA	127	168
HAWAII	26	35
GUAM, SAMOA AND PACIFIC TRUST TER.	22	29
IDAHO	62	81
ILLINOIS	222	292
INDIANA	173	229
IOWA	185	245
KANSAS	91	121
KENTUCKY	102	135
LOUISIANA	89	117
MAINE	91	121
MASSACHUSETTS	54	72
CONNECTICUT	33	44
RHODE ISLAND	11	14
MICHIGAN	226	299
MINNESOTA	161	213
MISSISSIPPI	150	197
MISSOURI	163	215
MONTANA	37	49
NEBRASKA	69	91
NEW JERSEY	61	81
NEW MEXICO	52	69
NEW YORK	200	264
VIRGIN ISLANDS	12	13
NORTH CAROLINA	269	354
NORTH DAKOTA	66	87

State	New	Existing
OHIO	184	242
OKLAHOMA	67	88
OREGON	76	100
PENNSYLVANIA	194	256
PUERTO RICO	191	251
SOUTH CAROLINA	132	175
SOUTH DAKOTA	94	124
TENNESSEE	96	126
TEXAS	244	323
UTAH	22	29
NEVADA	26	35
VERMONT	26	34
NEW HAMPSHIRE	46	61
VIRGINIA	99	130
WASHINGTON	118	156
WEST VIRGINIA	92	121
WISCONSIN	185	243
WYOMING	39	52
NATIONAL OFFICE RESERVE	146	9,854
TOTAL	5,750	17,250

TO BE COMPLETED FOR ALL
LH APPLICANTS DETERMINED ELIGIBLE

State:_____ Date Application Received:_____

Name of Applicant:_____ Type of Applicant:_____

County or Area to be Served:_____

Amount Loan Requested $_____ % of Total_____

Amount Grant Requested $_____ % of Total_____

Amount Loan Recommended by S/O $_____ % of Total_____

Amount Grant Recommended by S/O $_____ % of Total_____

Total # Units to be Built_____ Cost Per Unit_____

Estimated Rental Rates_____

Comparable Rents in Area_____

Estimated % Annual Occupancy_____ Estimated % Migrants_____

Estimated # Farmworkers in Area_____

Income Level of Farmworkers in Area_____

Comments regarding condition and availability of labor housing in area:

Comments and documentation regarding long-term need for the proposed project:

Comments regarding management experience of the applicant:

Other comments and S/O recommendation:

NOTE: If proposal involves rehabilitation of existing units, provide a general description of the rehabilitation planned along with an estimated cost breakdown.

FARMER PROGRAMS

Based upon the Appropriation Act for fiscal year 1979, farmer program loan levels are as follows:

[Dollars in thousands]

Program	Total	Quarters First	Second	Third	Fourth
OL	$825,000	$180,000	$390,000	$180,000	$75,000
FO	800,000	300,000	200,000	200,000	100,000
SW-I	51,000	20,000	15,000	10,000	6,000
Recreation	2,200	1,000	700	250	250
Grazing	4,400	4,400	0	0	0
Indian land acquisition	11,000	5,000	3,000	2,000	1,000
Irrigation and drainage	7,000	4,000	3,000	0	0

State allocations for farm ownership and farm operating loans for fiscal year 1979 are attached. State allocations are based on important factors which reflect the needs for credit. These factors include:

Number of farms;
Farm population;
Number of farm tenants;
Net farm income;
Participation credit (considered for FO loan allocations only); and
Historic obligations.

These factors have been given the same consideration for each State and the resulting calculations provide a measure of each State's funding needs in relation to other States.

PRIORITIES ON LOAN FUNDING

Applications for farm ownership and operating loans will be funded in the following order of priority:

1. Applications from low-income owners or operators of small farms who are identified as limited-resource applicants.

2. Applications from operators who qualify for guaranteed loans.

3. Applications from operators who qualify for insured loans at the cost of money interest rate and (for FO) with a portion of loan obtained from a participating lender. OL loan applicants are not required to obtain participation.

4. Applications from FO applicants who qualify for insured loans at the cost of money interest rate who are unable to obtain a participating lender.

State Directors are expected to place strong emphasis on utilizing funds to assist minority farmers, including women, disadvantaged families, low-income farmers and those with limited resources. The state's efforts to assist this group will be strongly considered when allocating additional funds to a state from the National Office reserves for both FO and OL loans.

Each State Director is expected to reserve and use from each quarterly allocation at least 25 percent of the FO and OL funds for loans to limited resource applicants.

While a specific amount is not being allocated to each state for guaranteed FO and OL loans, the making of such loans has second priority. The Appropriations Act mandated at least $50 million of FO funds and $25 million of OL funds for making guaranteed loans. Therefore, each State Director will take immediate steps to implement the guaranteed loan program in his or her state.

We expect to closely monitor each state's obligation of funds to determine progress in making guaranteed loans and loans to limited resource applicants.

At the end of the second quarter, March 31, we expect to review the obligations of FO and OL funds to determine compliance with funding priorities. Pooling of funds and reallocation to states will be considered at the time, if necessary, to accomplish priorities and goals on loans to limited resource applicants and guaranteed loans.

We expect to pool unobligated FO and OL funds by August 15, 1979.

FARM OPERATING LOANS

The operating loan obligation authority at $825 million is unchanged from the previous year. Each State office is expected to closely monitor the use of its OL allocations and administer the OL program consistent with this AN.

A National Office reserve of $50 million has been established to assist States that may have inadequate allocations. Use of OL funds relative to State allocations will be closely monitored by the National Office and, if necessary, some realignment of allocations will be made. The State Director for Hawaii may request OL funds from the reserve on an individual case basis for loans in other authorized areas of the Pacific.

FARM OWNERSHIP LOANS

Farm ownership loan obligations may be made in accordance with the quarterly allocations indicated.

Each State Director is responsible for maintaining a reserve for hardship cases. A National Office reserve of $25 million has been established. This will be available on an individual case basis when a dire need exists for funds in addition to the State's initial allocation. The State Director for Hawaii may request FO funds from the reserve on an individual case basis for loans in other authorized areas of the Pacific. Each State Director will maintain strict control over loan obligations to insure staying within the State's initial allocation for each category. State Directors may have to prohibit loan approval officials from sending loan dockets directly to the Finance Office without prior consent of the State Director or farmer program staff in the State office.

We are continuing our same participation policy as in 1978 fiscal year. Our goal is that each State obtain at least one dollar of other lender funds for each dollar of farm ownership funds.

INDIVIDUAL SOIL AND WATER AND RECREATION LOANS

Individual soil and water and recreation funds are not allocated on a state basis. Obligating documents may be submitted to Finance Office as the loans are approved.

IRRIGATION AND DRAINAGE, GRAZING ASSOCIATION AND INDIAN LAND ACQUISITION LOANS

Funds for irrigation and drainage (group), grazing associations and Indian land acquisition loans are retained by the National Office and will be allocated on an individual case basis. Funds for these loan types may be requested from the National Office when it is determined the loan can be approved.

Priority should be considered for irrigation and drainage loan applications for water conservation projects in water-short areas.

EMERGENCY, EMERGENCY LIVESTOCK, AND ECONOMIC EMERGENCY LOANS

State allocations for EM, EL and EE loans will not be made. Obligations will be handled directly by the Finance Office as in the past.

[3710-07-C]

FARM OWNERSHIP LOAN FUNDS
1979 FISCAL YEAR QUARTERLY ALLOCATIONS
(000 DOLLARS)

STATE	TOTAL	1st QTR	2nd QTR	3rd QTR	4th QTR
ALABAMA	$16,800	$ 6,300	$4,200	$4,200	$2,100
ALASKA	1,000	375	250	250	125
ARIZONA	6,000	2,250	1,500	1,500	750
ARKANSAS	23,000	8,625	5,750	5,750	2,875
CALIFORNIA	10,300	3,862	2,575	2,575	1,288
COLORADO	11,600	4,350	2,900	2,900	1,450
DELAWARE	2,200	825	550	550	275
MARYLAND	6,000	2,250	1,500	1,500	750
FLORIDA	9,000	3,375	2,250	2,250	1,125
GEORGIA	17,500	6,562	4,375	4,375	2,188
HAWAII	2,000	750	500	500	250
IDAHO	20,000	7,500	5,000	5,000	2,500
ILLINOIS	30,500	11,437	7,625	7,625	3,813
INDIANA	21,000	7,875	5,250	5,250	2,625
IOWA	35,000	13,125	8,750	8,750	4,375
KANSAS	29,200	10,950	7,300	7,300	3,650
KENTUCKY	24,800	9,300	6,200	6,200	3,100
LOUISIANA	13,000	4,875	3,250	3,250	1,625
MAINE	8,500	3,187	2,125	2,125	1,063
MASSACHUSETTS	2,000	750	500	500	250
CONNECTICUT	1,500	562	375	375	188
RHODE ISLAND	1,000	375	250	250	125
MICHIGAN	17,000	6,375	4,250	4,250	2,125
MINNESOTA	30,500	11,437	7,625	7,625	3,813
MISSISSIPPI	22,000	8,250	5,500	5,500	2,750
MISSOURI	35,000	13,125	8,750	8,750	4,375
MONTANA	13,000	4,875	3,250	3,250	1,625
NEBRASKA	29,200	10,950	7,300	7,300	3,650
NEW JERSEY	3,000	1,125	750	750	375
NEW MEXICO	7,500	2,813	1,875	1,875	937
NEW YORK	14,700	5,513	3,675	3,675	1,837
VIRGIN ISLANDS	400	150	100	100	50
NORTH CAROLINA	23,000	8,625	5,750	5,750	2,875
NORTH DAKOTA	27,000	10,125	6,750	6,750	3,375
OHIO	16,000	6,000	4,000	4,000	2,000
OKLAHOMA	31,000	11,625	7,750	7,750	3,875
OREGON	10,000	3,750	2,500	2,500	1,250
PENNSYLVANIA	13,200	4,950	3,300	3,300	1,650
SOUTH CAROLINA	12,500	4,688	3,125	3,125	1,562
SOUTH DAKOTA	28,000	10,500	7,000	7,000	3,500
TENNESSEE	21,800	8,175	5,450	5,450	2,725
TEXAS	36,000	13,500	9,000	9,000	4,500
UTAH	6,200	2,325	1,550	1,550	775
NEVADA	2,000	750	500	500	250
VERMONT	6,600	2,475	1,650	1,650	825
NEW HAMPSHIRE	1,500	563	375	375	187
VIRGINIA	12,000	4,500	3,000	3,000	1,500
WASHINGTON	11,700	4,388	2,925	2,925	1,462
WEST VIRGINIA	7,000	2,625	1,750	1,750	875
WISCONSIN	29,200	10,950	7,300	7,300	3,650
WYOMING	6,600	2,475	1,650	1,650	825
PUERTO RICO	9,500	3,563	2,375	2,375	1,187
RESERVE - N.O.	25,000	9,375	6,250	6,250	3,125
U.S. TOTALS	800,000	300,000	200,000	200,000	100,000

FARM OPERATING FUNDS
1979 FISCAL YEAR QUARTERLY ALLOCATIONS
(000 DOLLARS)

STATE	TOTAL	1st QTR	2nd QTR	3rd QTR	4th QTR
ALABAMA	$18,000	$3,410	$11,581	$1,649	$1,360
ALASKA	100	60	33	7	0
ARIZONA	4,100	836	1,946	852	466
ARKANSAS	21,000	2,920	12,894	3,383	1,803
CALIFORNIA	12,000	2,046	6,709	2,201	1,044
COLORADO	8,500	1,393	4,914	1,886	307
DELAWARE	1,100	146	584	275	95
MARYLAND	5,000	815	1,777	1,809	599
FLORIDA	12,000	4,116	4,776	1,015	2,093
GEORGIA	28,000	11,448	13,917	1,654	981
HAWAII	700	130	291	163	116
IDAHO	17,000	3,702	8,068	3,568	1,662
ILLINOIS	26,000	4,416	13,593	6,178	1,813
INDIANA	20,000	3,085	9,559	5,933	1,423
IOWA	35,000	7,152	20,103	4,380	3,365
KANSAS	22,000	4,319	8,745	6,957	1,979
KENTUCKY	23,000	5,201	8,939	5,490	3,370
LOUISIANA	32,000	5,373	22,664	2,845	1,118
MAINE	11,000	1,383	2,584	6,039	994
MASSACHUSETTS	1,000	156	204	425	215
CONNECTICUT	900	202	215	369	114
RHODE ISLAND	100	27	51	22	0
MICHIGAN	18,000	3,636	5,814	6,735	1,815
MINNESOTA	27,000	5,541	11,587	7,461	2,411
MISSISSIPPI	27,000	4,268	13,783	5,660	3,289
MISSOURI	31,000	5,053	14,123	9,341	2,483
MONTANA	8,500	1,812	4,728	1,642	318
NEBRASKA	20,000	3,038	11,471	4,701	790
NEW JERSEY	3,700	483	1,901	1,029	287
NEW MEXICO	5,000	764	2,816	1,148	272
NEW YORK	17,000	3,647	4,598	6,518	2,237
VIRGIN ISLANDS	100	52	2	46	0
NORTH CAROLINA	44,000	16,052	20,681	5,479	1,788
NORTH DAKOTA	18,000	4,871	6,847	4,612	1,670
OHIO	12,000	1,952	3,702	4,930	1,416
OKLAHOMA	26,000	6,849	9,053	5,251	4,847
OREGON	7,500	1,784	3,731	1,555	430
PENNSYLVANIA	14,000	2,628	3,575	6,214	1,583
PUERTO RICO	6,000	1,418	1,825	2,041	716
SOUTH CAROLINA	17,000	3,545	10,955	1,910	590
SOUTH DAKOTA	22,000	5,024	9,149	5,392	2,435
TENNESSEE	20,000	3,129	10,169	4,437	2,265
TEXAS	67,000	16,159	35,091	9,553	6,197
UTAH	3,500	840	1,248	934	478
NEVADA	1,000	159	438	289	114
VERMONT	3,500	773	583	1,447	697
NEW HAMPSHIRE	700	163	176	238	123
VIRGINIA	14,000	2,889	7,389	2,849	873
WASHINGTON	9,000	1,580	5,133	1,691	596
WEST VIRGINIA	4,000	1,060	1,282	1,055	603
WISCONSIN	26,000	6,333	8,480	7,285	3,902
WYOMING	4,000	1,191	1,977	566	266
STATE TOTALS	775,000	169,029	366,454	169,109	70,408
RESERVE - N.O.	50,000	10,971	23,546	10,891	4,592
U.S. TOTALS	825,000	180,000	390,000	180,000	75,000

[FR Doc. 78-30751 Filed 10-31-78; 8:45 am]

[3410-02-M]

Federal Grain Inspection Service

GRAIN STANDARDS

Voluntary Cancellation of Designation by Delaware

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Agriculture of the State of Delaware has elected not to request official designation under the United States Grain Standards Act, as amended, thereby allowing their current designation to terminate November 20, 1978. The Federal Grain Inspection Service is requesting comments from the grain trade and other interested parties regarding the need for designation of a replacement agency to perform official inspection in the State of Delaware. In addition, interested persons are invited to make application for designation to operate as an official agency in Delaware.

DATE: Comments and/or applications by December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, 202-447-8525.

SUPPLEMENTARY INFORMATION: The Department of Agriculture of the State of Delaware, Dover, Del. (State of Delaware), has elected not to request official designation under the terms of the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act") and will allow their current designation to terminate November 20, 1978.

Pub. L. 94-582, enacted in 1976 to amend the Act, provides in section 27 that any interior inspection agency providing service on November 20, 1976, the date on which the amended Act became effective, could continue to do so without a designation under the Act until the expiration of a period as determined by the Administrator, but not to exceed 2 years after the Act's effective date (7 U.S.C. 74 note).

The State of Delaware has notified the Federal Grain Inspection Service (FGIS) that it does not plan to apply for a new designation under the Act and will allow its current designation to terminate November 20, 1978. The reason given by the State of Delaware for not applying for the official designation is because of the limited number of requests received for full inspection service during the last fiscal year. Of the total number of inspections performed by the State during the last fiscal year, less than 3 percent were performed as a full grade service, indicating that nearly 98 percent of all inspections were for one or two grading factors only; i.e., moisture or foreign material, and not for an official U.S. grade. A preliminary survey taken by FGIS of interested parties in the State's grain industry appears to indicate that applicants will be able to secure the factor analysis they require for grain trade in Delaware from sources other than an officially designated agency.

The Administrator, FGIS, is authorized, under the provisions of the Act, to provide official inspection service at locations where the Administrator determines official inspection is needed (7 U.S.C. 79(f)(1)). FGIS requests comments from the grain trade and other interested parties with respect to the need for continuing to provide official grain inspection service in the State of Delaware after November 20, 1978. All comments should be submitted in writing and mailed to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, not later than December 1, 1978.

Under the provisions of section 7(f)(1), and subject to a final determination by the Administrator as to the need for official grain inspection service in the State of Delaware, interested persons are hereby given opportunity to make application for designation to operate as an official agency in Delaware, pursuant to the requirements in section 7(f)(1)(A) of the amended Act (7 U.S.C. 79(f)(1)(A) and § 26.96 of the regulations (7 CFR 26.96). Persons wishing to apply for designation to operate as an official agency in Delaware should contact the Office of the Director, Compliance Division, at the above mentioned address, for the appropriate forms and mail their applications to that Director's Office not later than December 1, 1978.

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)) provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

In making a final determination as to the need for a replacement agency in Delaware, consideration will be given to all comments filed and to any applications submitted and to all other information available to the Administrator. All comments submitted pursuant to this notice will be made available for public inspection at the above Office of the Director during regular business hours (7 CFR 1.27(b)).

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note); 7 CFR 1.27(b) and 26.96.)

Done in Washington, D.C., on October 27, 1978.

L. E. MALONE,
Acting Administrator.

[FR Doc. 78-30894 Filed 10-31-78; 8:45 am]

[3410-16-M]

Soil Conservation Service

FISH STREAM WATERSHED AND NEZINSCOT RIVER WATERSHED, MAINE

Intend To Not File an Environmental Impact Statement for Deauthorization of funding of the Fish Stream Watershed and Nezinscot River Watershed

Pursuant of Section 102(2)(C) of the National Enironmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for deauthorization of funding of the Fish Stream Watershed, Penobscot County, and the Nezinscot Watershed, Androscoggin and Oxford Counties, Maine.

The environmental assessments of these actions indicate that project deauthorization will not cause significant adverse local, regional or national impacts on the environment. As a result of these findings, Mr. Warwick M. Tinsley, Jr., State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these actions.

The notices of intent to not prepare an environmental impact statement have been forwarded to the Environmental Protection Agency. The basic data developed during planning and for the environmental assessment of the projects are on file and may be reviewed by interested parties at the Soil Conservation Service, USDA Building, University of Maine, Orono, Maine 04473; 207-866-2132.

No administrative action on implementation of these proposals will be taken until 60 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 USC 1001-1108.)

Dated: October 24, 1978.

NORMAN A. BERG,
Associate Administrator.

[FR Doc. 78-30830 Filed 10-31-78; 8:45 am]

[6820-32-M]

ARMS CONTROL AND DISARMAMENT AGENCY

PRIVACY ACT OF 1974

Annual Notice of the Existence and Character of Systems of Records

AGENCY: U.S. Arms Control and Disarmament Agency.

ACTION: Annual notice of the existence and character of systems of records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4), the U.S. Arms Control and Disarmament Agency gives annual notice of the existence and character of its systems of records.

EFFECTIVE DATE: Effective November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles R. Oleszycki, Office of the General Counsel, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, 202-632-0760.

As required by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), the U.S. Arms Control and Disarmament Agency hereby gives annual notice of the existence and character of its systems of records, without changes, as published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47464-47468), and amended on June 21, 1978 (43 FR 26602-26604).

Dated: October 19, 1978.

JAMES T. HACKETT,
Administrative Director.

[FR Doc. 78-30882 Filed 10-31-78; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 2:30 p.m. on November 14, 1978, at 911 Walnut Street, Room 3100, Kansas City, Mo. 64106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Kansas City, Mo. 64106.

The purpose of this meeting is to continue planning for a desegregation conference.

This meeting will be conducted pursuant to the provisions of rules and regulations of the Commission.

Dated at Washington, D.C., October 30, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-31028 Filed 10-31-78; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

ROUNDS I AND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT (LPW) PROGRAM

Destruction of Denied Project Applications

Notice is hereby given to unsuccessful applicants for grants under Rounds I and II of the LPW program that EDA will destroy all denied project applications on file after (30 days after publication), unless an applicant requests the return of its application. All such requests must be in writing and must be directed to the appropriate EDA Regional Office.

The following is a list of the EDA Regional Offices:

Atlantic Regional Office, 10424 Federal Building, 600 Arch Street, Philadelphia, Pa. 19106.

Southeastern Regional Office, Suite 700, 1365 Peachtree Street NE., Atlanta, Ga. 30309.

Rocky Mountain Regional Office, Suite 505, Title Building, 909 17th Street, Denver, Colo. 80202.

Midwestern Regional Office, 175 West Jackson Boulevard, Suite A-1630, Chicago, Ill. 60604.

Western Regional Office, 1700 Westlake Avenue North, Suite 500, Seattle, Wash. 98109.

Southwestern Regional Office, American Bank Tower, Suite 600, 221 West Sixth Street, Austin, Tex. 78701.

Dated: October 26, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-30854 Filed 10-31-78; 8:45 am]

[3510-24-M]

THE UNWROUGHT, UNALLOYED COPPER INDUSTRY

Study of Producing Firms

SUMMARY

The Department of Commerce has completed a study of the unwrought, unalloyed copper industry. The study was prepared under section 264 of the Trade Act of 1974 which requires such a study whenever the U.S. International Trade Commission conducts an investigation under section 201. The Commission submitted its final report to the President in August 1978. The Commission determined that unwrought, unalloyed copper was being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat thereof to the domestic industry.

FIRMS ELIGIBLE FOR ADJUSTMENT ASSISTANCE

Section 264 requires that this study look at "the number of firms in the domestic industry . . . which have been or are likely to be certified as eligible for adjustment assistance." Thus far, no petitions for certification have been filed, and no firms in the industry have been certified. However, 13,883 workers have been certified as eligible for adjustment assistance by the Department of Labor and 13 cases were still pending as of July 30, 1978.

The domestic industry consists of about 110 firms which mine, mill, or otherwise process copper ore, 19 firms operating primary smelters, refineries, and electrowinning plants and about 40 secondary producers. Many of these firms are fully integrated from mine to refinery and some are capable of producing both primary and secondary copper.

Any firm desiring certification must show that increases in imports "contributed importantly" to (a) the separation, or threat thereof, of a significant number or proportion of its workers, *and* (b) an absolute decrease in sales or production. The requirement of increased imports could be satisfied. Most firms probably could also satisfy the requirements for employment and either sales or production declines. A showing that the increased imports "contributed importantly" to these declines probably could be made, but this would not necessarily be true for specific firms.

Despite these probabilities some firms might have no desire or need for financial assistance beyond what private sources can provide. In addition, while some smaller, independent copper producers may find the various Federal assistance programs useful, it is highly unlikely that the amount of Federal financial assistance available would be a significant help to the major copper-producing companies which account for most of the domestic mine, smelter and refinery output. Without specific data on the needs and experience of individual firms, there is no way of determining the number of firms which may be certi-

fied as eligible for adjustment assistance under the provisions of the Act.

SOURCES OF FEDERAL ASSISTANCE

Three Federal agencies have programs that might facilitate orderly adjustment of firms to import competition. The Economic Development Administration (EDA), in the Department of Commerce, has several relevant programs. One authorizes technical assistance, direct loans, and loan guarantees to firms that have been certified as eligible for adjustment assistance. Another authorizes public works grants, loans, and loan guarantees for communities that have been injured by imports. Still another provides for loans and guarantees for firms in designated "redevelopment areas" and "economic development centers." Such places are also eligible for public works.

The Small Business Administration (SBA), an independent agency, has three programs that might help. The most important is a program of direct, participating, and guaranteed loans to small businesses. In general, SBA handles loans of $350,000 or less, while EDA handles the larger loans.

The Farmers Home Administration (FmHA), in the Department of Agriculture, has two relevant programs. One provides business loan guarantees to firms located in areas other than cities of over 50,000 population.

Additional information about the adjustment assistance program and copies of the report *Prospects for Adjustment Assistance for Firms in the Unwrought, Unalloyed Copper Industry*, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5113.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-30855 Filed 10-31-78; 8:45 am]

[3510-25-M]

Industry and Trade Administration

[Transmittal No. 235; Order No. 44-1 (Amendment 1)]

BUREAU OF DOMESTIC BUSINESS DEVELOPMENT

Organization and Function Order

Effective Date: September 5, 1978.

ITA Organization and Function Order 44-1 of December 4, 1977 (43 FR 10955), is hereby amended as follows to reflect the establishment of the Iron and Steel Division. The functions and the personnel in the Iron and Steel Program of the Materials Division are transferred to the Iron and Steel Division.

1. *SECTION 10. Office of Basic Industries.* Section 10.01 is revised to add the following:

"d. Iron and Steel Division"

2. The attached organization chart [1] supersedes the organization chart dated December 1977.

FRANK A. WEIL,
Assistant Secretary for Industry and Trade.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-30829 Filed 10-31-78; 8:45 am]

[3510-15-M]

Maritime Administration

[Docket No. S-625]

COVE CARRIERS INC., CTS ASSOCIATES

Applications

Notice is hereby given that Cove Carriers Inc. (Carriers) and CTS Associates (CTS), related companies, have each filed application under the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy to engage in bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the U.S.S.R., to expire on December 31, 1978, unless extended. Inasmuch as these applicants, and/or related persons or firms, employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under Section 805(a) of the Act will be required if the applications for operating-differential subsidy are to be granted.

CTS is partly owned by Plymouth Tankers Inc. which is related through Transeastern Associates to Seatrain Lines, Inc. An officer and director of Cove Tank Ships Inc., is the Managing Venturer of CTS and owns a pecuniary interest in Seatrain Lines, Inc.

Carriers requests written permission to own the tanker, *Cove Spirit*, and CTS requests permission to own the tankers, *Cove Engineer* and *Cove Ranger*. Both applicants request permission for Cove Shipping Inc., an affiliate, to operate these vessels in worldwide trade including domestic operation under the Military Sealift Command or private charters. Carriers and CTS also request written permission for the right to move these tankers from one domestic trade to another, and/or from a foreign trade to a domestic trade.

It will be necessary to extend to Cove Ventures Inc., Cove Tankers Inc. and Cove Trading Inc., affiliates of the applicants and holders of operating-differential subsidy contracts in bulk trades with the U.S.S.R., the foregoing written permissions requested by Carriers and CTS. Conversely, it will be necessary to extend to Carriers and CTS the section 805(a) written permission previously granted to Cove Ventures Inc., Cove Tankers Inc., and Cove Trading Inc. These permissions are as follows:

1. For Cove Ventures Inc. to own the *Cove Leader* for operation in the domestic trade;

2. For Cove Shipping Inc. to operate the *Cove Leader* in the domestic trade, as well as the right to move the vessel from one domestic trade to another, and/or from a foreign trade to a domestic trade;

3. For Cove Tankers Associates and Cove Communicator Associates, affiliates of Cove Ventures Inc., to own the *Cove Navigator* (formerly *Mount Navigator*) and *Cove Communicator*, respectively;

4. For Seatrain Lines, Inc. to operate vessels in the domestic trade, including the Alaska/Panama trade and certain Military Sealift Command (MSC) operations, as a result of a pecuniary interest in Seatrain Lines, Inc. through a minority stock interest on the part of an officer and director of each of Cove Ventures Inc., Cove Trading Inc. and Cove Tankers Inc.;

5. For Cove Shipping Inc. to operate the USNS's *Susquehanna*, *Neches*, *Columbia*, and *Hudson* in domestic service under MSC or private charters;

6. For Cove Tankers Corp.'s owned vessel, *Cove Explorer* (formerly *Mount Explorer*), and its bareboat chartered vessels, *Cove Navigator* and *Cove Communicator*, to engage in the domestic service under MSC or private charter, and for Cove Shipping Inc. to operate these vessels in the domestic trade;

7. For Cove Trading Inc. to own the *Cove Trader* for worldwide operation (including domestic operation), and Cove Shipping Inc. to operate the *Cove Trader* and *Stuyvesant* in the carriage of Alaskan oil in the domestic trade; and

8. For the right to move the foregoing vessels from one domestic trade to another, and/or from a foreign trade to a domestic trade.

The foregoing written permission is required notwithstanding the fact that a grain voyage would not be eligible for subsidy if the vessel engages in the domestic trade on that voyage.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such applications and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the applications must, by

[1] Filed as part of the original document.

close of business on November 10, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: October 26, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-30792 Filed 10-31-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

SEA WORLD, INC.

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Dr. Lanny Cornell, vice president/Research/Veterinary Husbandry, Sea World, Inc., 1720 South Shores Road, Mission Bay, San Diego, Calif. 92109.

2. Type of permit: Scientific Research/Public Display.

3. Name and number of animals: Beluga (*Delphinapterus leucas*), 6; pilot whale (*Globicephala macrorhynchus*), 6; common dolphin (*Delphinus delphis*) and/or Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), 20; spotted dolphin (*Stenella sp.*) or spinner dolphin (*Stenella longirostris*) or striped dolphin (*Stenella coeruleoalba*) or Northern right-whale dolphin (*Lissodelphis borealis*), 15; Atlantic or Pacific bottlenose dolphin (*Tursiops truncatus*), 50.

4. Type of activity: To capture, import, and maintain permanently in Sea World facilities for public display, opportunistic research and captive propagation except 40 bottlenose dolphins which will be held temporarily up to 90 days for tagging and releasing.

5. Location of activity: Worldwide.

6. Period of activity: 5 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangmeents and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Mass. 01930; Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702; Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: October 27, 1978.

W. P. JENSEN,
Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-30912 Filed 10-31-78; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED), will meet in closed session at the Naval Research Laboratory, Building 208, Room 260A, Washington, D.C. 20375, on December 7, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout. In accordance with section 10(d) of Appendix I, Title 5, United States Code, it is hereby determined that this meeting of the Advisory Group on Electron Devices concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 26, 1978.

[FR Doc. 78-30840 Filed 10-31-78; 8:45 am]

[3710-08-M]

Veterans Administration

ARMED FORCES DISCHARGE REVIEW/ CORRECTION BOARDS INDEX

Agreement Between the Department of Defense and the Veterans Administration Regarding Provision of Index of Discharge Review/Correction Board Cases to Selected VA Regional Offices

Notice is hereby given that as a result of the establishment in January 1978 of a Coordinating Committee under the co-chairmanship of the Domestic Policy Council and the Veterans Administration to review the status of Vietnam-Era veterans, the Veterans Administration and the Department of Defense have entered into a cooperative arrangement whereby former service members will be provided access at selected VA Regional Offices to the index of decisions of the discharge review and correction boards of the military departments which may assist them in preparing their cases to be heard by the boards.

As a result of prior agreements between DOD, the military departments and other interested parties, non-personalized copies of case documents are filed in a reading room in the Pentagon for public inspection and copying. Each case contains a statement of findings, conclusions and reasons relative to the appeal and the Board's decision. Case documents are indexed in a form so as to enable those who represent applicants before the Boards to isolate from all those decisions that are indexed, those cases that may be similar to any applicant's case and that indicate the circumstances under and/or reasons for which the Board and/or Secretary have granted or denied relief.

Effective on or about September 15, 1978, the index will be made available at the VA Regional Offices listed below to former service members and those who represent former service members before the boards.

Phoenix, Ariz.; Los Angeles, Calif.; San Francisco, Calif.; Denver, Colo.; St. Petersburg, Fla.; Atlanta, Ga.; Indianapolis, Ind.; Louisville, Ky.; Baltimore, Md.; Boston, Mass.; St. Paul, Minn.; Newark, N.J.; Buffalo, N.Y.; New York, N.Y.; Cleveland, Ohio; Portland, Oreg.; Providence, R.I.; Nashville, Tenn.; Philadelphia, Pa.; and Chicago, Ill.

The index will be made available at the Regional Offices on microfiche and will be updated quarterly. Microfiche reader equipment and written materials explaining procedures for use of the index and for requesting case documents by mail will be located with the index.

Access to the index will be limited to the normal working hours of the VA Regional Offices in which the index is located. Telephonic or written inquiries regarding the cases indexed should be directed to:

LTC James M. Danley, Jr., Office of the Deputy Assistant Secretary of the Army (RB&PS), Room 1E520, The Pentagon, Washington, D.C. 20310, telephone no. 202-695-5704.

The agreement may be terminated by mutual consent of appropriate DOD and VA authorities. The mutual agreement between the DOD and VA or any of its specific provisions may be revised or amended by approval of appropriate DOD and VA authorities.

Dated: October 23, 1978.

DOROTHY L. STARBUCK,
Chief Benefits Director, Veterans Administration.

FRANCIS X. PLANT,
Deputy Assistant Secretary, (DA Review Boards and Personnel Security).

[FR Doc. 78-30860 Filed 10-31-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AR61-2, *et al.*, and AR69-1]

AREA RATE PROCEEDINGS, ET AL. (SOUTHERN LOUISIANA AREA)

Order Denying Rehearing and Clarifying Prior Order

OCTOBER 18, 1978

On August 31, 1978, United Gas Pipe Line Co. (United) filed application for rehearing of the Commission's July 31, 1978 order in the above-referenced docket. Also on August 31, Tennessee Gas Pipeline Co. (Tennessee) filed a petition for clarification of that same order. At issue is the method of implementing and justifying surcharges to be made by certain natural gas pipelines to account for excessive refunds flowed-through from producers to customers "down-line" as a result of the Commission's orders of June 27, 1978 and July 31, 1978 in this docket.

BACKGROUND

The necessity for pipeline surcharges arose as a result of a United States Court of Appeals decision in *Tenneco Oil Company, et al.* v. *Federal Energy Regulatory Commission*, Case Nos. 76-2960, et al.,——F2d——(1978), wherein the Court set aside that portion of Opinion No. 749 [1] which required a waiver by producers of existing refund credits in order to make sales at the new national rates. As a result of this holding, Shell Oil Co. (Shell) determined that it had over-refunded an unknown amount to certain of its pipeline purchasers, and petitioned the Commission to defer any further distribution of those refunds by the pipeline purchasers until such time as Shell could calculate the amount by which it should be reimbursed.

By order dated June 27, 1978, the Commission denied Shell's petition and ordered the flow-through of refunds to customers "down-line", without prejudice to Shell, and other producers,[2] filing for a surcharge to recover those amounts repayable pursuant to *Tenneco, supra*. Upon rehearing, the Commission was persuaded that the producer surcharge procedure might be unworkable in some instances. As a result, the Commission's July 31, 1978 order on rehearing amended its June 27 order by providing that the pipeline purchasers will first pay the producers that amount recognized by the Commission to be properly reimbursable, then the pipelines may apply to the Commission for approval to recover such amounts through a PGA clause or by some other appropriate procedure.

THE APPLICATION FOR REHEARING AND THE PETITION FOR CLARIFICATION

United's application for rehearing first argues that the Commission erred in issuing its July 31 order without affording an opportunity for hearing or comments from all affected parties. United also argues that pipeline companies will suffer an unwarranted financial burden if they are required to immediately return a portion of the refund to their suppliers, but defer recovery of such returned amounts for an extended period. United proposes three alternative procedures which it claims will remedy the situation: (1) The pipeline could recover the erroneous refunds through a special surcharge in its PGA, as proposed in the July 31 order, but pay the amounts to the producer only as they are recovered; (2) alternatively, the pipeline could pay the amounts to the producer in a lump-sum and recover such amounts through immediate lump-sum payments from its customers; or (3) the pipeline could pay the amounts to the producer in a lump-sum and collect them from customers on a deferred basis, but with carrying charges at 9 percent.

The Commission does not find United's arguments persuasive. On October 18, 1978, the Commission issued order No. 13 in docket No. R-406 which permitted pipelines to collect carrying

[1] Docket No R-478, ——FPC——, issued December 31, 1975.

[2] The findings of that order were made applicable to all similar refund situations arising out of the *Tenneco* ruling.

charges at 9 percent per annum on purchased gas costs accrued in the deferred account. This will adequately compensate pipelines for any "unwarranted financial burden" that may occur as a result of the procedure adopted in the July 31, 1978, order. The Commission further notes that recovery of the amounts paid to the producer would be by way of a pipeline's "* * * PGA clause or such other appropriate procedure." Parties will have further opportunity to discuss the method that pipelines will use to recover these costs at the time a detailed procedure is established for giving producers moneys owed them as a result of the *Tenneco* decision. Thus we find no prejudice to United as a result of the July 31, 1978, order and shall therefore deny United's application for rehearing.

Tennessee requests clarification of the Commission's intent with respect to the procedure by which pipelines will recover the reimbursable amounts from their customers. Although Tennessee does not object to collecting such amounts as a normal purchased gas expenditure through its PGA filings, Tennessee contends that the propriety of such PGA adjustments should not be subject to Commission approval in a separate proceeding. Tennessee argues that because of the Court's decision in *Tenneco, supra,* and the Commission's order directing reimbursement to producers, it is ipso facto just and reasonable that Tennessee be permitted to recover such costs from its customers. We agree. To the extent that the Commission has approved the reimbursement claims of producers pursuant to its orders of June 27 and July 31, and pipeline purchasers have in fact reimbursed producers by said amounts, those pipeline purchasers may include such amounts as a normal purchased gas expenditure in a subsequent PGA filing, or other appropriate rate filing which portion of such filing related to those amounts will become effective upon acceptance thereof by the Commission, without necessity for separate Commission approval.

The Commission orders:

(A) United's application for rehearing is denied.

(B) To the extent that the Commission has approved the reimbursement claims of natural gas producers pursuant to its orders of June 27 and July 31, 1978 in this docket, and pipeline purchasers have in fact reimbursed producers by said amounts, those pipeline purchasers may include such amounts as a normal purchased gas expenditure in a subsequent PGA filing, or other appropriate rate filing, which portion of such filing related to those amounts will become effective upon acceptance thereof by the Commission, without necessity for separate Commission approval.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-30793 Filed 10-31-78; 8:45 am]

[8740-02-M]

[Docket No. RA78-4]

BAYOU STATE OIL CORP.

Time Extension

OCTOBER 24, 1978

On October 16, 1978, counsel for the Secretary of Energy filed a motion for further extension of time within which to file the administrative record and reply to the petition for review in this proceeding. A previous extension of time for these purposes had been granted by notice issued October 2, 1978. The motion states that additional time is needed by the Office of Hearing and Appeals to compile the record since that office has been recently assigned this responsibility and must also prepare the records for other Commission proceedings and U.S. District Court proceedings. The motion further states that counsel for the Secretary of Energy requires substantial time after preparation of the record to prepare its response to the petition for review because of the nature of the issues presented for review. An answer in opposition to the motion was filed on October 18, 1978, by Bayou State Oil Corp. The answer states, inter alia, that the Secretary of Energy has not shown good cause for the further extension, that it has been harmed by the "inordinate delay" in this matter which commenced in May of 1977, and opposes any further delay.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 22, 1978, for the filing of the administrative record and reply to the petition for review. The time for making these two filings will not be extended further.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30794 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-23]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

OCTOBER 25, 1978.

Take notice that on October 13, 1978, Columbia Gas Transmission Corp. (Applicant), P.O. Box 1273 Charleston, W. Va. 25325, filed in Docket No. CP79-23 an application pursuant to section 7 of the Natural Gas Act for a certification of public convenience and necessity authorizing the construction, acquisition and operation of certain natural gas facitities and for permission and approval to abandon certain other natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that the facilities which Applicant proposes to construct and operate are primarily designed to maintain service to Applicant's existing wholesale customers at levels presently authorized by the Commission. Applicant does not request authorization herein for any service or sale not heretofore authorized, it is said. It is stated that the segments of pipelines that Applicant proposes to replace generally consist of bare steel and wrought iron pipe which were originally installed with inadequate protection against corrosion, and that with few exceptions, these facilities were installed in the early 1900's and are becoming increasingly difficult to maintain and operate. It is indicated that Applicant has determined that if it is to continue to provide safe and reliable service to its existing wholesale customers, these pipeline segments must be replaced.

It is asserted that changes in replacement pipe sizes are proposed because of changed in gas availability from local production areas, changed market patterns and changes in supply sources. Applicant has determined for each project the optimum diameter replacement pipe based on present and future anticipated market requirements and the anticipated availability of locally produced and purchased volumes of gas, it is said.

Specially, Applicant proposes the following and gives the following justification for the instant proposal.

1. The construction and operation of approximately 5.1 miles of 36-inch transmission pipeline replacing two parallel 26-inch pipelines (each approximately 5.1 miles in length) located in Pendleton County. W. Va.

Applicant's transmission system between Seneca and Lost River Compressor Station consists of two parallel 26-inch pipelines and one 36-inch pipeline. This system is the major source of supply for the Washington-Balti-

more Metropolitan Areas. A failure in either of the deteriorating 26-inch pipelines would significantly affect Applicants's ability to maintain deliveries to these areas. The proposed 36-inch pipeline is the smallest practical size which can replace the two 26-inch pipelines without a reduction in capacity. Applicant previously replaced an 11.1 mile segment of the two parallel 26-inch pipelines.

2. The construction and operation of approximately 1.6 miles of the 10-inch transmission pipeline, in four separate sections, replacing a like amount of 16-inch pipeline located in Athens and Hocking Counties, Ohio.

The four sections of deteriorating pipeline transport locally produced gas volumes received from Gas Transport, Inc. to various small markets between the Ohio River at Gravel Bank and Crawford Compressor Station. Applicant's most recent replacement of this pipeline was certificated in docket No. CP78-67.

3. The construction and operation of approximately 0.3 miles of 10-inch transmission pipeline and appurtenant facilities replacing a multiple river crossing consisting of two 8-inch pipelines, each approximately 0.3 mile in length, located in Clarion and Armstrong Counties, Pa.

The multiple line 8-inch river crossing to be replaced constitutes a portion of Applicant's pipeline system which is a major source of supply for the communities of Emlenton, Knox and Rimersburg, Pa. Applicant also proposes to replace and relocate the existion valve settings to more accessible areas.

4. The construction and operation of approximately 2.1 miles of 12-inch transmission pipeline, in four separate sections, replacing a like amount of 18-inch pipeline located in Cabell County, W. Va.

This pipeline segment transports gas produced from Branchland Production Field to Kenova Compressor Station.

5. The construction and operation of approximately 0.4 mile of 6-inch transmission pipeline replacing a like amount of 12-inch pipeline located in Montgomery County Ky.

The segment of 12-inch pipeline to be replaced is a portion of the transmission system which serves part of the market requirements of the city of Winchester, Ky. Applicant's most recent replacement project on this pipeline was certificated at docket No. CP78-67.

6. The construction and operation of approximately 0.3 mile of 4-inch transmission pipeline replacing a like amount of 6-inch pipeline located in Athens County, Ohio.

This 6-inch pipeline transports locally produced and purchased volumes to Meigs Compressor Station.

7. The construction and operation of approximatley 1.2 miles of 24-inch transmission pipeline replacing a like amount of 16-inch pipeline located in Franklin County, Ohio.

The segment of 16-inch pipeline to be replaced is a portion of the pipeline system utilized to serve the city of Columbus, Ohio, and surrounding area. The replacement with larger diameter pipe is consistent with Applicant's past construction of this pipeline, the latest being certificated at docket No. CP78-67.

8. The construction and operation of approximately 1.4 miles of 3-inch transmission pipeline, in three separate sections, replacing a like amount of 8-inch pipeline located in Guernsey County, Ohio.

The sections of pipeline being replaced constitute a portion of the pipeline which is the sole source of supply to the community of Fairdale, Ohio.

The construction and operation of approximately 0.6 mile of 2-inch transmission pipeline replacing a like amount of 12-inch pipeline located in Fayette County, Pa.

The pipeline segment to be replaced constitutes a portion of the pipeline which is the sole source of supply for mainline consumers in Fayette County, Pa.

10. The construction and operation of approximately 0.7 miles of 4-inch transmission pipeline replacing a like amount of 6-inch pipeline located in Licking County, Ohio.

This section proposed for replacement is a portion of the pipeline which is the sole source of supply to various suburbs in the vicinity of Newark, Ohio.

11. The construction and operation of approximately 0.5 mile of 10-inch transmission pipeline replacing a like amount of 12-inch pipeline located in Licking County, Ohio.

The pipeline segment to be replaced transports locally produced and purchased gas volumes and is a portion of the pipeline which is the sole source of supply for the market of Homer, Ohio.

12. The construction and operation of approximately 0.4 mile of 6-inch transmission pipeline replacing a like amount of 10-inch pipeline located in Delaware County, Ohio.

The segment to be replaced constitutes a portion of the pipeline which is the sole source of supply for the market area of Ashley, Ohio.

13. The construction of operation of approximately 1.9 miles of 8-inch transmission pipeline replacing a like amount of 10-inch pipeline located in Hancock County, Ohio.

The section of pipeline to be replaced is a portion of the pipeline which is the sole of supply to Vanlue Gas Co., Arlington Gas Co., Forrest Gas Co., and the market of Wharton, Ohio.

14. The construction and operation of approximately 0.3 mile of 3-inch transmission pipeline replacing a like amount of 8-inch pipeline located in Columbiana County, Ohio.

The section constitutes a portion of Applicant's transmission pipeline serving Negley, Ohio.

15. The construction and operation of approximately 0.9 mile of 3-inch transmission pipeline replacing a like amount of 5-inch pipeline located in Wayne County, Ohio.

The section to be replaced is a portion of the pipeline which is the sole source of supply for the town of Canaan in Wayne County, Ohio.

16. The construction and operation of approximately 2.1 miles of 4-inch transmission pipeline replacing a like amount of 12-inch and 8-inch pipeline located in Wayne County, Ohio.

The segment to be replaced is a portion of the pipeline which is the sole source of supply for the community of New Pittsburgh, Ohio.

17. The construction and operation of approximately 0.6 mile of 4-inch transmission pipeline replacing a like amount of 8-inch pipeline located in Medina County, Ohio.

Applicant's existing transmission pipeline is the sole source of supply for the markets of Spencer, Penfield and Litchfield, Ohio. Segments of this pipeline have previously been replaced. The most recent replacement having received certificate authorization at docket No. CP78-67.

18. The construction and operation of approximately 0.5 mile of 8-inch transmission pipeline replacing a like amount of 10-inch and 12-inch pipeline located in Medina County, Ohio.

The segment to be replaced transports volumes locally produced and purchased gas and is a portion of the pipeline which is the sole source of supply for the market of LaFayette, Ohio.

19. The construction and operation of approximately 0.8 mile of 4-inch transmission pipeline replacing a like amount of 10-inch pipeline located in Wetzel County, W. Va.

The segment of 10-inch line to be replaced constitutes a portion of Applicant's pipeline system which is the sole source of supply for the community of Middlebourne, W. Va.

20. The construction and operation of approximately 1.4 miles of 8-inch tranmission pipeline replacing a like amount of 10-inch pipeline located in Upshur and Barbour Counties, W. Va.

The segment to be replaced transports locally produced and purchased volumes of natural gas and is a portion of the pipeline which is a source of supply for several communities located in Barbour, Randolph, and Tucker

Counties, W. Va. Applicant has previously replaced segments of this transmission pipeline. The most recent replacement having received certificate authorization at docket No. CP78-67.

21. The construction and operation of approximately 0.4 mile of 6-inch transmission pipeline replacing a like amount of 12-inch pipeline located in Lawrence County, Pa.

The segment of 12-inch transmission pipeline to be replaced constitutes a portion of the pipeline system which is the primary source of supply for the market requirements of the communities of West Liberty, Slippery Rock, and Harrisville, Pa. Applicant's most recent replacement of this pipeline was certificated at docket No. CP78-67.

22. The acquisition and operation of 3.7 miles of 6-inch pipeline and the construction and operation of a measuring and regulating facility for two new points of delivery and the abandonment of 3.5 miles of 6-inch pipeline located in Adams County, Pa.

Applicant's existing 6-inch transmission pipeline installed in 1896, is the sole source of supply for the communities of Cashtown, Arendtsville, and Table Rock, Pa. As an alternative to replacing the deteriorating pipeline, Applicant proposes to provide a new source of supply by acquiring 3.7 miles of 6-inch pipeline from Columbia Gas of Pa., an affiliated distribution company. Applicant would acquire the 3.7 miles of 6-inch line for original cost less depreciation.

Due to the configuration of Columbia Gas of Pennsylvania's distribution system in this area, the purchase of said 3.7 miles of 6-inch line would require the establishment of two new points of delivery to Columbia Gas of Pennsylvania. Applicant would install an additional measuring station to determine, by deduction and in conjunction with existing measurement, the total deliveries to the two new points of delivery. The establishment of the two new points of delivery would be utilized only for existing customer requirements.

The acquisition and related construction would permit Applicant to abandon immediately a 3.5 mile portion of deteriorating pipeline. This abandonment would not result in termination of service to any of Applicant's existing customers.

23. The construction and operation of two natural gas interconnecting measuring facilities and appurtenances which establish two (2) new points of delivery and the abandonment of 2.9 miles of 10-inch transmission pipeline located in Ohio and Marshall Counties, W. Va.

The 2.9 miles of 10-inch transmission pipeline which Applicant proposes to abandon was originally utilized to transport volumes of natural gas to the Ohio Valley market area. Due to shifting supply patterns, this segment of pipeline is no longer required to serve present or future anticipated requirements of the Ohio Valley market area. However, in order to maintain flexibility in Applicant's deliveries to Columbia Gas of West Virginia, an affiliated retail distributor, Applicant proposes to install a point of delivery which consists of an interconnecting measuring and regulating facility.

Columbia Gas of West Virginia desires to purchase two segments, totaling 0.6 mile in length, of the 2.9 miles proposed for abandonment. Columbia Gas of West Virginia has indicated that it desires to incorporate the 0.6 mile of 10-inch into its existing distribution system. Applicant would abandon in place the remaining 2.3 miles of 10-inch. The proposed abandonment and sale would not result in termination of service to any existing customer.

In order for Columbia Gas of West Virginia to utilize the purchased pipeline, Applicant has agreed to establish an additional point of delivery. Columbia Gas of West Virginia would reimburse Applicant for the cost of the additional point of delivery. The two new points of delivery would be utilized to serve existing customers only.

Applicant requests permission to abandon certain pipeline facilities which are no longer used or useful in its operations. The proposed abandonments are related to the depletion of local gas supply and changed operational patterns, it is said. Applicant states that it has provided additional information for certain projects as may be required for a full understanding of the project. The proposed abandonments would not result in any loss of gas supply nor the termination of service to any customer, it is stated.

Specifically Applicant requests permission and approval to abandon the following and gives the following justification for the subject abandonment.

1. The abandonment of approximately 11.8 miles of 8-inch transmission pipeline located in Kanawha County, W. Va.

Applicant proposes to abandon approximately 11.8 miles of 8-inch transmission pipeline. Of this 11.8 miles, Columbia Gas of West Virginia has agreed to purchase 6.7 miles for $1 per foot. The remaining section of pipeline, which cannot be utilized by Applicant or Columbia Gas of West Virginia, would be abandoned in place.

2. The abandonment of approximately 0.3 mile of 10-inch transmission pipeline located in Kanawha County, W. Va.

3. The abandonment of approximately 7.4 miles of 10-inch and 12-inch transmission pipeline located in Roane County, W. Va.

4. The abandonment of approximately 2.7 miles of 10-inch transmission pipeline located in Marshall County, W. Va.

5. The abandonment of approximately 0.3 mile of 8-inch transmission pipeline located in Belmont County, Ohio and Ohio County W. Va.

6. The abandonment of approximately 0.2 mile of 6-inch and 12-inch transmission pipeline located in Jefferson County, Ohio.

7. The abandonment of approximately 2.9 miles of 10-inch and 28-inch transmission pipeline located in Brooke County, W. Va.

8. The abandonment of a point of delivery to Columbia Gas of Pennsylvania and related facilities located in Elk County, Pa.

Columbia Gas of Pennsylvania has advised Applicant that it no longer requires the Kane point of delivery located in Elk County, Pa. Total deliveries to Columbia Gas of Pennsylvania would not be affected by the abandonment of the Kane point of delivery.

9. The abandonment of approximately 0.7 mile of 8-inch transmission pipeline located in McKean County, Pa.

10. The abandonment of Greenwood Compressor Station consisting of one-300 horsepower and one-400 horsepower compressor unit and appurtenant facilities located in Steuben County, N.Y.

The 300-horsepower unit was installed in 1949, under authorization, in docket No. G-1117, to pump volumes into Greenwood Storage Field. The 400-horsepower unit was installed in 1957, in docket No. G-10171, to provide additional capacity to pump volumes into Greenwood Storage Field. In 1971 pursuant to authority granted in docket No. CP79-97, Applicant installed the 1,000-horsepower North Greenwood Compressor Station, activated North Greenwood Storage Field and installed connecting pipeline facilities between Greenwood and North Greenwood Storage Fields. In docket No. CP70-97 Applicant stated "The existing Greenwood Compressor Station will be utilized to inject gas available from the Olean delivery point. The proposed Greenwood No. 2 (North) Compressor Station will be utilized to inject gas available from the Port Jervis delivery point."

The loss by storm damage in 1972 and subsequent abandonment in docket No. CP76-77 of the A-line system between Olean and Greenwood, negated the purpose stated in CP70-97 for Greenwood Compressor Station, i.e., "The existing Greenwood Compressor Station will be utilized to inject gas available from the Olean delivery point".

Since 1972, the Greenwood Station has been utilized solely for the production of locally produced volumes of natural gas. Production has ceased due to excessive salt water, and compression by Greenwood Compressor Station is no longer needed.

11. The abandonment of approximately 11.7 miles of 6-inch and 12-inch transmission pipeline located in Lincoln, Wayne, and Cabell Counties, W. Va.

The segment of 6-inch and 12-inch pipeline to be abandoned and another parallel 12-inch pipeline were originally utilized to transport locally produced volumes of gas discharged by Hubball Compressor Station. Local production has declined to the point that only one of the parallel lines is required to transport the volumes from Hubball Compressor Station.

As Applicant no longer requires the 11.7 miles of 6-inch and 12-inch pipeline for transmission purposes, it is proposed to abandon the pipeline from transmission service. Applicant further proposes to reclassify to production, and utilize as exempt gathering facilities the 11.7 miles of 6-inch and 12-inch pipeline. Said abandonment and reclassification would have no effect on Applicant's ability to maintain deliveries to existing customers and conforms to the proposed utilization of this pipeline. Applicant's most recent replacement and rearrangement on said parallel pipeline system was certificated by the Commission in docket No. CP76-77 wherein the construction and operation of approximately 1.6 miles of 12-inch transmission pipeline replacing a segment of the two parallel 12-inch transmission pipelines was authorized.

It is stated that Applicant estimates that the total cost of its proposed construction program would be $4,549,000, which cost Applicant proposes to be financed from funds generated from internal sources.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1978, 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 (18CFR 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 or its designee 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or it the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30795 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-65 PGA No. 78-4; AP No. 78-1]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes In FERC Gas Tariff

OCTOBER 24, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on October 19, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. Columbia states that this filing amends its filing of September 29, 1978, and proposes an effective date of September 2, 1978. Columbia states that the proposed changes are the result of (i) the revised rates of Texas Eastern Transmission Corp., filed October 12, 1978, to become effective September 1, 1978, occasioned by the Commission's stay of effectiveness of opinion No. 21 rates and (ii) the reduced rates of Transcontinental Gas Pipe Line Corp. at docket No. RP73-3 approved by letter order issued October 16, 1978, to be effective September 1, 1978. As a result of these revisions, Columbia's revised rates herein proposed to become effective September 2, 1978, reflect a purchase gas cost adjustment which is $1,660,340 higher than that filed by Columbia on September 29, 1978, but is $616,710 lower than the purchased gas cost adjustment as originally filed on July 31, 1978.

Copies of the filing were served upon the company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30796 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. G-18671; Docket No. AR64-1, et al.]

DORCHESTER GAS PRODUCING CO.

Area Rate Proceeding, et al. (Hugoton-Anadarko Area)

OCTOBER 24,1978.

Take notice that on October 6, 1978, Dorchester Gas Producing Co. (Dorchester) filed a proposed settlement agreement in this proceeding.

This proceeding was initiated by a petition filed by Dorchester in the captioned dockets on August 10, 1972, for release of a trust fund which had been created to cover possible refund obligations relating to a sale of gas by Dorchester to Northern Natural Gas Company (Northern).* There is involved an amount of approximately $5,200,000, plus interest components, refundable (absent relief to Northern under the terms of the Hugoton-Anadarko area rate proceeding (Opinion No. 586, 44 FPC 761 (1970).) The petition sought to satisfy the refund obligation by use of the trust fund money for an exploration and development program with gas coming therefrom to be sold to Northern at the national rate. This plan was subsequently submitted to the Commission as a settlement proposal and provided that 125 percent of the refund obligation would be paid to Northern out of ¼ of Dorchester's net working interest in income from whatever gas would be

*These proceedings were commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), they were transferred to the FERC. The term "Commission", when used in the context of the action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

brought forth by the E and D program. It further provided that Dorchester could withdraw from the trust fund amounts required to pay any incremental Federal income tax resulting from taking the exploration fund amount into its corporate income, but that it would have to redeposit later tax savings in the trust fund. This settlement proposal was rejected by the Commission on the ground that Dorchester had failed to show that it was entitled to refund forgiveness or a higher rate in accordance with principles enunciated in the *Permian I* area rate proceeding, as the Commission required.

In *Dorchester Gas Producing Company* v. *FERC*, 571d F2d 823 (CA-5, 1978), the Court affirmed the Commission's conclusion that Dorchester's proposal did not best suit the public interest, but remanded the case to the Commission to afford Dorchester an opportunity to amend its settlement agreement and to afford the Commission an opportunity to review a new settlement agreement, if submitted, in light of increasing problems wrought by the natural gas shortage.

Dorchester's October 6, 1978 proposed settlement agreement was submitted as permitted by the Court decision. The principal difference between it and the prior settlement proposal is that Dorchester would put $3 of its own money into the E and D program for every $2 of consumer money and that full execution of the E and D program by Dorchester would be in lieu of any payment by it of the refund monies to Northern. The proposed settlement also contains certain evidentiary material purporting to show that it complies with the *Permian I* requirements.

Comments to the proposed settlement agreement may be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before November 22, 1978. Such comments will be considered by the Commission in determining appropriate action, but will not serve to make commenters parties to the proceeding.

The record in this proceeding, including the proposed settlement agreement, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30797 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-33]

IOWA POWER AND LIGHT CO.

Application For Exemption

OCTOBER 25, 1978.

Take notice that on October 16, 1978, Iowa Power and Light Co. (Applicant), P.O. Box 657, Des Moines, Iowa 50303, filed in Docket No. CP77-33 an application pursuant to section 1(c) of the Natural Gas Act for an exemption from the provisions of the Natural Gas Act and the rules and regulations thereunder of certain intrastate gas liquefaction, storage and transportation facilities of Applicant, and the natural gas transported, received, stored and distributed from these facilities on behalf of certain Iowa utilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant asserts that it is supplied with natural gas from Northern Natural Gas Co. (Northern) and Natural Gas Pipeline Co. of America (Natural), and that it has propane-air peak shaving facilities with the capacity to produce 35,000 Mcf of natural gas equivalent per day. Applicant further asserts that it has a liquefied natural gas (LNG) plant northeast of Des Moines, which plant commenced operation in 1975 and has the capacity to convert 2,000 Mcf of gas per day into liquid, to store up to 400,000 Mcf and to convert LNG into gas at the rate of 25,000 Mcf per day.

Applicant states that it has, during the past two heating seasons and the approaching one, signed LNG storage agreements with each of two utilities (Utilities), which agreements provide that Applicant would receive liquefy, store, vaporize, and redeliver to Utilities such volumes of natural gas as may be tendered by Utilities to Applicant for storage up to a specified maximum annual volume to be redelivered to Utilities in the winter season (October 27 through March 26). Pursuant to the terms of these agreements, Applicant agrees to accept natural gas for storage, such acceptance to be made a Northern's Des Moines TBS No. 1, it is said. It is stated that these agreements contemplate that most deliveries would take place during the summer season (March 27 through October 26).

Applicant indicates that it is obligated to redeliver to Utilities certain daily volumes of vaporized LNG during the winter season, but such deliveries are not to exceed the total volumes of gas Utilities have in storage. Applicant further indicates that if Utilities' agreement is not extended for an additional winter season, Applicant is obligated so to notify Utilities prior to the expiration of the current winter season. Utilities are then obligated to accept the balance of LNG in storage at a specified daily rate until all LNG in storage is redelivered by the expiration of the winter season (March 27), it is stated.

Applicant indicates that it would charge Utilities for the proposed services a price which consists of an annual demand charge, a commodity charge per Mcf for all of Utilities' volumes of natural gas delivered to Applicant during Northern's billing month, and a charge per Mcf for all volumes of gas redelivered to Utilities during the months that were in excess of Utilities' maximum daily volume. It is stated that such agreements also provide that the minmum annual bill would be the annual demand charge.

Applicant indicates that it would make redeliveries to Utilities by displacement through reduction in the volume of natural gas available to Applicant at Northern's Des Moines TBS No. 1. It it asserted that Northern concurrently increases its deliveries to Utilities at specified delivery points under the terms of its applicable tariff. Applicant states that all gas subject to these agreements would be transported and consumed in the State of Iowa, and that the title to the gas would at all times remain with Utilities.

Accordingly, Applicant requests exemption for these existing agreements with Utilities and for other like contracts which may be entered into with other Utilities for such storage service. Applicant states that such agreements would be for the purpose of receiving, liquefying, storing and redelivering natural gas from Northern at Iowa Power's Des Moines, TBS No. 1. for service only to delivery points, and for ultimate consumption, in the State of Iowa, which agreements are contemplated to be limited to summer season storage and winter season redelivery, and would be extendable for periods of one year, but not to exceed five years. It is stated that Utilities entering into such agreements would certify that the redelivered gas is intended for delivery only to residential, small commercial, or other high priority retail service, which service would be provided for the purpose of allowing other Utilities to cover temporary shortages of peak day gas supply at delivery points solely within the State of Iowa, without the need for large expenditures for permanent facilities or other high cost alternatives.

Applicant asserts that such agreements would be designed to implement transportation agreements between Northern and such Utilities for the delivery of natural gas to Applicant for storage, and the subsequent redelivery by Applicant to Northern for delivery

by displacement to such utilities of the volumes of vaporized LNG previously liquified and stored by Applicant under the terms of the (storage) agreements, all pursuant to certificate(s) of public convenience and necessity which may be granted by the Commission from time to time for such transportation service.

The Iowa State Commerce Commission certified on October 13, 1978, that it has and is exercising jurisdiction over the rates and services rendered by Applicant in connection with sales of gas and facilities of Applicant and the services rendered as described herein.

Wherefore, Applicant is requesting an order exempting from the provisions of the Natural Gas Act the facilities, transportation, delivery, and redelivery of natural gas invloved in the above-described operations of its gas transportation, storage and LNG facilities connected to the facilities of Northern in Polk County, Iowa.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1978, 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). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30798 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. E-8615]

LOUISIANA POWER & LIGHT CO.

Notice Granting Extension of Time

OCTOBER 20, 1978.

On October 18, 1978, Louisiana Power & Light Co. filed a motion for a further extension of time to make refunds in this proceeding pursuant to Commission opinion No. 813 of July 21, 1977 and opinion No. 813-A of June 5, 1978. By notice issued October 6, 1978, L.P. & L. had been granted an extension to October 19, 1978.

A further extension of time is granted to and including October 25, 1978, for Louisiana Power & Light Co. make the refunds required by opinion No. 813-A.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30799 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. RA78-1]

LUNDAY-THAGARD OIL CO.

Notice of Extension of Time

OCTOBER 24, 1978.

On October 16, 1978, counsel for the Secretary of Energy filed a motion for extension of time to file the administrative record and to reply to the petition for review in this proceeding. The motion states that the request is made because of counsel's absence from Washington due to a death in her family.

Upon consideration, notice is hereby given that an extension for filing the administrative record and response to the petition for review in this proceeding is granted to and including October 25, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30800 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-97; PGA No. 78-1]

MONTANA-DAKOTA UTILITIES CO.

Notice of Extension of Time

OCTOBER 24, 1978.

On October 18, 1978, Montana-Dakota Utilities Co. filed a motion for an extension of time to file its brief on exceptions to the initial decision of the presiding judge issued September 25, 1978 in this proceeding. The motion states that the extension is requested because of illness of counsel and unexpected conflicting professional commitments. The motion further states that Commission Staff Counsel, the only active party, concurs in the request.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 31, 1978 for the filing of briefs on exception in this proceeding. Briefs opposing exceptions shall be filed on or before November 20, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30801 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-74]

NORTHERN NATURAL GAS CO. (PEOPLES NATURAL GAS DIVISION)

Notice of Extension of time

OCTOBER 24, 1978.

On October 24, 1978, Commission Staff Council filed a motion to extend the time for service of top sheets as required by the Commission's order of July 28, 1978, in this proceeding. The motion states that additional time is needed in order for Staff to review information being submitted by Northern in response to Staff's data requests.

Upon consideration, notice is hereby given that an extension of time is granted to and including December 1, 1978, for the service of top sheets by the Staff in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30802 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-15]

NORTHWEST PIPELINE CORP.

Notice of Amendment to Application

OCTOBER 25, 1978.

Take notice that on October 13, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in docket No. CP78-15 an amendment to its application filed herein on October 11, 1978, pursuant to section 7(c) of the Natural Gas Act so as to provide for the construction and operation of certain natural gas facilities and the reallocation of natural gas service for Northwest Natural Gas Co. (Northwest Natural), an existing customer of applicant, all as more fully set forth in the amendment of file with the Commission and open to public inspection.

Applicant indicates that on October 11, 1977, it filed an application in the instant docket requesting authorization to:

1. Construct and operate a new point of delivery for up to 1,097 Mcfd of natural gas to Northwest Natural for distribution and resale by Northwest Natural in the community of Dallesport, Wash., and environs;

2. Construct and operate new measurement facility to serve the existing The Dalles, Oreg. delivery point and proposed Dallesport delivery point;

3. Reduction of 1,097 Mcf (11,500 therms) in the total maximum daily quantity of ODL-1 service at Camas, Wash., and the Dalles, Oreg. and reallocation between delivery points of 1,432 Mcf (15,000 therms) in the total

daily maximum of SGS-1 service to Natural; and

4. Abandon The Dalles, Oreg. meter station, and as a result of abandonment, construct and operate 95 feet of 4-inch pipeline to continue sales to The Dalles service area.

It is indicated that pursuant to the Commission's order of august 14, 1978, Applicant was granted the certificate authorization essentially as requested and permission and approval to abandon the Dalles Meter Station. It is further indicated that such order was conditioned as follows:

(1) Northwest Natural shall reimburse Applicant $49,500 of the total estimated cost of the proposal.

(2) Applicant shall exclude from its rate base those facilities downstream from the proposed Dallesport Meter Station. Applicant states that such conditions were troublesome to it; therefore, Applicant has filed concurrently herewith its notice that it cannot accept the certificate issued herein pursuant to the Commission's order of August 14, 1978.

Consequently, Applicant has filed herewith the instant amendment by which Applicant has restructured the proposal to eliminate the request to abandon the Dalles Meter Station and revise the reallocation of delivery obligations of volumes of natural gas as hereinafter stated. Specifically, Applicant now requests authorization for:

1. The construction and operation of a new point of delivery for the delivery of up to 1,998 Mcf (21,000 therms) of natural gas to Northwest Natural for distribution and resale by Northwest Natural in the community of Dallesport, Wash. and environs;

2. A reduction of 1,998 Mcf (21,000 therms) in the total maximum daily delivery obligation set forth in exhibit A to the ODL-1 service agreement which Applicant in authorized to sell and deliver to Northwest Natural at the Camas, Wash. delivery point.

It is stated that Northwest Natural, in order to make volumes of natural gas available to the Dallesport area without a corresponding increase in its daily contract quantity, has requested that Applicant reduce the maximum daily deliverability obligation (MDDO) for ODL-1 service at the presently authority delivery point of Camas by 1,998 Mcf per day (21,000 therms) and to reallocate the proposed Dallesport delivery point. Applicant indicates that the reallocation of the MDDO of the delivery points, as proposed, is as follows:

MAXIMUM DAILY DELIVERY OBLIGATION ODL-1 SERVICE

Delivery points	Presently effective		Proposed	
	Mcf	Therms	Mcf	Therms
Dallesport, Wash	0	0	1,998	21,000
Camas, Wash	28,734	302,000	26,736	281,000
Total	28,734	302,000	28,734	302,000

Applicant states that it does not propose to increase the daily contract quantity of natural gas which it is authorized to sell and deliver to Northwest Natural.

The amendment states that Northwest Natural has requested a new point of delivery to serve primarily two large industrial customers, Dow Chemical Co., and Jarl Construction, and applicant anticipates that there would be several residential customers and commercial accounts in addition to the aforementioned industrial customers.

The facilities for which applicant herein seeks authorization to construct and operate are as follows:

DALLESPORT METER STATION

A 3-inch turbine type meter with a 2-inch bypass, complete with appurtenances, adjacent to the right-of-way of applicant's existing 4-inch lateral in Klickitat County, Wash.

It is stated that the estimated cost of construction of the proposed facilities is $78,800, and that Northwest Natural has agreed to contribute $60,000 toward the construction cost.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 14, 1978, 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. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30803 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket Nos. G-14562, et al.]

TENNESSEE GAS PIPELINE CO., ET AL.

Time Extension

OCTOBER 24, 1978.

On October 24, 1978, Commission staff counsel filed a motion to extend the time for submitting comments on the settlement proposal as requested by the notice issued September 29, 1978, in this proceeding. Staff states that the extension is requested because of unforeseen scheduling difficulties related to work on the recently enacted national energy legislation. The motion states that all parties have been contracted and none objects to the extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 3, 1978, for the filing of comments on the settlement proposal in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30804 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. RP75-73(AP No. 78-3)]

TEXAS EASTERN TRANSMISSION CORP.

Further Extension of Time

OCTOBER 24, 1978.

On October 6, 1978, Texas Eastern Transmission Corp. filed a motion for further extension of time to file its case-in-chief in this proceeding as required by the Commission order of September 1, 1978 and notice of October 5, 1978, in this proceeding. The motion states that an informal conference has been held in an attempt to limit or eliminate certain issues and that staff has requested and received information which will be used for that purpose. The motion states that staff, as the only active party, does not object to the motion.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 24, 1978, for Texas Eastern to file its case-in-chief in this proceeding. Staff shall

file its statement of position on or before December 6, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30805 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. CP 79-24]

TRANSCONTINENTAL GAS PIPELINE CORP.

Application

OCTOBER 25, 1978.

Take notice that on October 13, 1978, Transcontinental Gas Pipeline Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP79-24 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Amoco Production Co. (Amoco), on a firm basis, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization to transport on a firm basis a maximum daily quantity of gas equal to the lesser of the Btu equivalent of 12,000 Mcf of gas or one-half of Amoco's interest in the daily volumes of gas actually produced from Block 246, Ship Shoal Area, offshore Louisiana. Applicant states that it would deliver such gas to Florida Gas Transmission Co. for the account of Amoco at an existing point of connection in Vermilion Parish, La. Applicant further states that pursuant to the subject transportation agreement, when mutually agreed Applicant would defer deliveries of any or all gas to Amoco during the months of November, December, January, February, and March; and upon Amoco's request such cumulative undelivered quantities would be delivered to Amoco on a firm basis during the months of April, May, June, July, August, September, and October.

The purpose of the transportation service, it is stated, is to enable Amoco to supply gas to Florida Power & Light Co. under its existing warranty obligations.

Applicant states that Amoco would pay it 2.1 cents per Mcf of gas it transports and delivers to Florida Gas Transmission Co.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 14, 1978, 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 paricipate 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 an 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, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30806 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-28]

WESTERN GAS INTERSTATE CO.

Application

OCTOBER 25, 1978.

Take notice that on October 16, 1978, Western Gas Interstate Co. (Applicant), 1800 First International Building, Dallas, Tex. 75270, filed in Docket No. CP79-28 and application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(d) of the Regulations thereunder (18 CFR 157.7(d)), for a certificate of public convenience and necessity authorizing the construction for a 3-year period commencing January 1, 1979, and operation of certain natural gas facilities for the testing and development of underground storage reservoirs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to engage in a continuing program of testing and developing reservoirs for the underground storage of natural gas for the benefit of Applicant's system operations and service to its customers.

Applicant states that the total volume of natural gas to be injected into the prospective underground storage projects would not exceed 10,000,000 Mcf, with no more than 2,000,000 Mcf being injected into any single field and with injections being made only during off-peak periods. Total expenditures for the proposed 3-year project would not exceed $3,000,000 and would not exceed $1,000,000 in any one year. Applicant proposes to finance these costs from funds on hand and, to the extent necessary, with short term borrowings from Applicant's parent company, Southern Union Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1978, file with the Federal Energy Regulatory Commmission, 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 157.110). 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 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 or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30807 Filed 10-31-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-30]

WESTERN GAS INTERSTATE CO.

Application

OCTOBER 25, 1978.

Take notice that on October 16, 1978, Western Gas Interstate Co. (Applicant), 1800 First International Building, Dallas, Tex. 75270, filed in docket No. CP79-30 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period following the receipt of the requested authorization herein, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type applications is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material changes in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $100,000, which cost would be financed from funds on hand and by short-term borrowing from Applicant's parent company, Southern Union Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1978, 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 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 or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30808 Filed 10-31-78; 8:45 am]

[3128-01-M]

Office of the Secretary

BRIEFINGS ON DOE COMMERCIALIZATION PROGRAM

Public meetings will be held in the following cities on the indicated dates at which attendees will be briefed on the current status of the Department of Energy Commercialization Program. The focus will be on new initiatives designed to achieve energy market place acceptance of new energy technologies currently being developed.

Date, time, and place

November 15, 1978; 9 a.m.—Washington, D.C., Forrestal Building, Room GE-086 (The Business Community).

November 15, 1978; 11 a.m.—Washington, D.C. 20 Massachusetts Avenue, Room 8222C (The Labor Community).

November 15, 1978; 2 p.m.—Washington, D.C., Forrestal Building, Room GE-086 (The Consumer, Environmental and other Public Interest Groups).

November 15, 1978; 4 p.m.—Washington, D.C. 20 Massachusetts Avenue, Room 8222C (The Education Community and State and Local Government Interests).

The above indicated groups are invited at the time indicated, however all briefings are open to the public.

November 16, 1978; 2 p.m.—Chicago, Ill., Everett McKinley Dirksen Building,, 219 South Dearborn, Room. 2541.

November 20, 1978; 9 a.m.—Atlanta, Ga., Riviera—Hyatt Hotel, 1630 Peachtree Street NW.

November 20, 1978; 2:45 p.m.—Dallas, Tex., Baker Hotel, 1400 Commerce Street, Texas Room.

November 21, 1978; 2 p.m.—New York, N.Y., Federal Building, 26 Federal Plaza, Room. 1-102.

For additional information or a consolidated fact sheet contact:

Washington, Mr. Bruce Robinson, 202-376-4040.
Atlanta, Mr. Roy Pettit, 404-881-2838.
Dallas, Mr. Curtis Carlson, 214-749-7345.
New York, Mr. Robert Low, 212-264-1021.
Chicago, Mr. David Stein, 312-353-8566.

Issued in Washington, D.C., on October 31, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-31102 Filed 10-31-78; 11:58 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 998-7; OPP-62002]

HERBICIDES: DINITRO TECHNICAL AND ANCRACK HERBICIDE

Intent to Hold Hearing

The Administrator intends to hold a hearing under section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), to determine whether or not the registrations of the herbicides Dinitro Technical, EPA Reg. No. 148-1213, and Ancrack Herbicide, EPA Reg. No. 19713-23, should be canceled.

Any person wishing to become a participant in this proceeding shall file a written response to the accompanying statement of issues with Ms. Sonia G. Anderson, Hearing Clerk, Environmental Protection Agency, Room 3708A, Waterside Mall, Washington, D.C. 20460, on or before December 1, 1978. The response shall state the position and interest of such person with respect to the issues listed below. In addition, if any such person is a registrant or an applicant for registration, his response shall include, if applicable, the registration number of the pesticide, a copy of the currently accepted and/or proposed labeling, and a list of the currently registered uses of said pesticide.

ISSUES TO BE DISCUSSED IN HEARING

Dow Chemical Co., in two petitions dated August 8, 1977, and March 29, 1978, petitioned the Administrator for cancellation of the registrations of the herbicides Dinitro Technical and Ancrack Herbicide, respectively. The registration of Dinitro Technical, which is held by the Thompson-Hayward Chemical Co., was granted by the Administrator on June 9, 1975. The registration for Ancrack Herbicide, which is held by the Drexel Chemical Co., was granted by the Administrator on August 20, 1976.[1]

[1] The Ancrack Herbicide registration originally was held by the Ansul Co. (EPA Registration No. 6308-73). The registration was transferred by the Agency to the Drexel Chemical Co. on April 11, 1977, pursuant to an agreement between the companies in which Ansul assigned to Drexel its right, title, and interest in Ancrack Herbicide. Although Dow omitted reference to this transfer in its petition, the Administrator does not consider omission of such reference fatal to the petition. The issues raised in

Footnotes continued on next page

In both petitions, Dow states that the Administrator has authority to cancel the registrations under FIFRA § 6(b), which states in pertinent part:

> • • • If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted, does not comply with the provisions of this Act • • • the Administrator may issue a notice of his intent either—
>
> (1) To cancel its registration • • • or
>
> (2) To hold a hearing to determine whether or not its registration should be cancelled • • •

Dow alleges that Ansul and Thompson-Hayward each were required to submit with their respective applications, but did not submit, the following materials:

Materials identifying and delineating the data which the applicants wished the Administrator to consider in support of the applications.

Materials evidencing that the applicants had made an offer to pay reasonable compensation to the owner(s) of the data which the Administrator was to consider in support of such application, or else materials evidencing the original data submitter(s) had consented to the Administrator's consideration of such data in support of the application in question.

Materials evidencing the original data submitter(s) had consented to the Administrator's consideration, in support of the applications in question, of data entitled to confidential treatment under FIFRA § 10.

Based upon these allegations, the Administrator desires to have the following issues addressed during the hearing:

1. What materials were required to be submitted by an applicant at the time the registrations in questions were issued?

2. Were the required materials submitted?

3. For § 6(b) purposes, what effect should be given to two recent judicial decisions, *Dow Chemical Co.* v. *Costle*, —— F. Supp. —— (E. D. Mich., Civil Action No. 76-10087, April 4, 1978) and *Mobay Chemical Corp.* v. *Costle*, 447 F. Supp. 811 (1978)?

4. Any other issues relevant to the allegations contained in Dow's petitions which may be raised by any participant or the Administrative Law Judge.

The language of FIFRA § 6(b) cited above states that the Administrator *may* issue a notice of intent to cancel or to hold a hearing. This contrasts with the language of § 6(a)(1), which states that the Administrator *shall* cancel certain registrations under certain circumstances. Nowhere in § 6(b) is there a requirement that the Administrator *must* cancel a registration even if he finds that there are grounds for cancellation, although, of course, a decision not to cancel would be judicially reviewable under FIFRA § 16. The Administrator thus appears to have a certain amount of discretion with respect to cancelling a registration, even if grounds for cancellation exist. Assuming the evidence developed at the hearing shows that the material required to be submitted in connection with the two pesticides does not comply with the provisions of FIFRA, as construed, a remaining issue will be whether the registrations *should* be cancelled. In that regard, there are a number of significant issues which the Administrator must consider before determining whether to grant Dow's requests for cancellation.

The Administrator desires to have such issues addressed during the hearing. The issues are as follows:

1. Whether the Administrator's failure to determine the trade secrecy status of the Dow data used to support the applications for registration of Dinitro Technical and Ancrack Herbicide has had, or will have, any adverse effect on Dow which cancellation of the registrations in question could rectify.

2. Whether the failure of Thompson-Hayward and Ansul to make a direct offer to pay compensation to Dow for such data has had, or will have, any adverse effect on Dow which cancellation of the registrations in question could rectify.

3. Whether cancellation of these registrations would have any significant adverse effects on the current registrants, Thompson-Hayward and the Drexel Co.

4. Whether cancellation of these registrations would cause an impact on production and prices of agricultural commodities, retail food prices, or otherwise on the agricultural economy.

5. Whether cancellation of these registrations would cause an anti-competitive effect by markedly increasing the concentration of herbicide products designed for uses similar to those of Dinitro Technical and Ancrack Herbicide.

6. Any other related issues which may be raised by any participant or the Administrative Law Judge.

Dated: October 23, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-30787 Filed 10-31-78; 8:45 am]

Footnotes continued from last page

both petitions relate to events which transpired during the initial registration process, and their resolution currently is relevant regardless of the registration transfer.

[6560-01-M]

[FRL 998-5]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to § 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: The 45-day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30-day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from October 13, 1978 through October 20, 1978; the date of submission of comments on draft EIS's computed from October 27, 1978, is December 11, 1978.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: October 26, 1978.

PETER L. COOK,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Geothermal Leasing & Develop., Gifford Pinchot National Forest Skamania and Cowlitz Counties, Wash., October 20: The proposed action is to determine which of 299,608 acres should be recommended for leasing on national forest lands for developmental geothermal resources authorized by the Geothermal Steam Act of 1970. The proposed leasing areas lie completely within

the Gifford Pinchot National Forest, Skamania and Cowlitz Counties, Wash. The lands have been designated by the Geological survey as "areas valuable prospectively" for geothermal resources and would be leased to the non-competitive lease applicants held by the Bureau of Land Management. (USDA-FS-R6DES (ADM) 79-1) (EPA Order No. 81145).

Final

Tahoe National Forest Timber Management Plan, several counties in California, October 20: Proposed is a revision of the existing timber management plan which establishes a timber harvesting level and schedule for the Tahoe National Forest in the Counties of Nevada, Sierra, Placer, Yuba, and Plumas, Calif. Seven alternatives are considered which vary from approximately 2,000 million board feet to 1,000 million board feet per decade of programmed harvest. Comments made by: AHP, COE, USDA, DOI, EPA, State and local agencies, groups, individuals, and businesses (EPA Order No. 81141).

Illinois Wild and Scenic River Proposal, Josephine and Curry Counties, Oreg., October 19: This statement recommends that 50 miles of the Illinois River be considered as an addition to the national wild and scenic rivers system. The recommendation is to classify the river as follws: 3.8 miles from the mouth of the Illinois upstream to Nancy Creek as recreational; 28.7 miles from Nancy Creek upstream to Briggs Creek as wild; and 17.9 miles from Briggs Creek upstream to the Siskiyou National Forest boundary as scenic. The river segments are located in Josephine and Curry Counties, Oreg., all within the Siskiyo National Forest boundary. (USDA-FS-FES-(LEG) 77-03). Comments made by: AHP, EPA, DOI, DOC, NOAA, USDA, FPC, USCG, State agencies, groups, individuals, and businesses (EPA Order No. 81139).

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Final

Aquatic Plant Control Program, Mobile District, Marshall County, Ala., October 17: Proposed is the control and progressive eradication of the water hyacinth, alligator weed, and other noxious aquatic plant growths from the navigable waters, tributary streams, connecting channels and other allied waters in the Corps of Engineers Mobile District, which includes the States of Florida, Alabama, Texas, Louisiana, and Mississippi. Control measures consist of approved chemicals, biological control agents, mechanical methods, and combinations. (Mobile District). Comments made by: EPA, DOC, DOI, USDA, HUD, DOT, USCG, FPC, State and local agencies, groups (EPA Order No. 81131).

Final Supplement

Obion Creek Project (S-1), several counties in Kentucky, October 16: This supplemental EIS updates a final EIS filed with EPA in January 1978. The purpose of this supplement is to take into consideration the deposition of materials in the wetlands along Obion Creek located in Kentucky. The original project would have resulted in excavated fill material being deposited in 304 acres of wetlands, which would have resulted in dry land after construction was completed. The project has been modified to realign channel improvements to avoid the wetlands and to also haul excavated material outside wetland areas. These measures would eliminate permanent disposal in 119 wetland areas. (Memphis District) (EPA Order No. 81129).

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Halibut off the coast of Alaska, Fishery Management Plan, several counties in Alaska, October 20: The proposed action is the Fishery Management Plan which addresses the hook and line fisheries for halibut off the coast of Alaska. The specific goals for the halibut resource are: (1) To rebuild the halibut resource to a level of abundance which will provide long-term optimal yield, and (2) to provide for a viable halibut setline fishery for U.S. fishermen (EPA Order No. 81150).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Environmental Protection Agency Library (MD-35), Research Triangle Park, N.C. 27711.

Draft

Electric utility steam generating units, National standards, October 20: The proposed action is the issuance of proposed standards of performance which limit emissions of sulfur dioxide, particulate matter, and nitrogen oxides from new, modified, and reconstructed electric utility steam generating units capable of combusting more that 73 megawatts heat input of fossil fuel. A new reference method for determining continuous compliance is also proposed. The intended effect of these standards is to use the best demonstrated systems of continuous emission reduction and to satisfy the Clean Air Act Amendments of 1977. (EPA-450/2-78-007A) (EPA Order No. 81148).

EPA, REGION 1

Contact: Mr Wallace Stickney, Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Room 2203, Boston, Mass. 02203, 617-223-4635.

Final

Androscoggin Valley 208 Plan, Maine, October 20: This statement discusses the technical and management alternatives under consideration to deal with water quality problems of the Androscoggin Valley 208 area from now through the next 20 years. The 208 area consists of the towns of Lisbon, Sabattus, Lewiston, Auburn, Poland, Mechanic Falls, Minot, Oxford, Norway, and Paris. The various alternatives address themselves to the broad range of both point and non-point source water quality problems present in the area (Region 1). Comments made by: DOI, EPA, State and local agencies (EPA Order No. 81143).

EPA, REGION 2

Contact: Environmental Protection Agency, Region II, 26 Federal Plaza, Room 1009, New York, N.Y. 10007, 212-264-8556.

Final

Ocean dumping of sludge in New York Bight, New York and New Jersey, October 16: The statement concerns a proposal to choose an additional site for the ocean dumping of the increasing amount of sewage sludge from the New York-New Jersey industrial area. Recent studies, however, have led EPA to recommend continued use of the existing dump site with a comprehensive monitoring program and designation of an alternate dump site should the monitoring indicate a need for one. Comments made by: USDA, DOC, HEW, HUD, COE, DOI, USCG, EPA, State and local agencies,groups (EPA Order No. 81128).

EPA, REGION 4

Contact: Mr. John Hagan, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-7458.

Final

Trimble County Generating Station permit, Trimble County, Ky., October 20: The proposed project is to construct a new 2,340 megawatt coal-fired steam electric generating station on the Ohio River, in Trimble County, Ky. The facility would replace old units scheduled for retirement over and 8-year period starting in 1979, as well as provide for increasing demand for power. Two ravines adjacent to the generating site totalling 1,440 acres would be used for solid waste disposal. Also proposed is a new 9-mile-long corridor to accommodate two 345-kV transmission lines. The proposed facility would be required to meet all new source performance standards under NPDES permitting authority. (EPA 904/9-78-017). Comments made by: HUD, AHP, DOC, NOAA, USDA, DOI, DOE, HEW, State and local agencies, groups, individuals, and businesses (EPA Order No. 81144).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Gentry-Waipo, Waipo, Honolulu County, Oaho, Hawaii, October 19: Proposed is the issuance of HUD home mortgage insurance for the Gentry-Waipo, Honolulu County, Oahu Island, Hawaii. The project area is 510 acres and will contain an ultimate population of about 11,800. Development consists of 3,700 housing units on 278 acres, 120 acres for light industrial use, a commercial area of 14 acres, Public facilities on 24 acres, and the balance in open space and rights-of-way. (HUD-R09-EIS-78-10D). (EPA Order 81136).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Draft supplement

Alaska National Interest Lands, several counties, Alaska, October 20: This statement supplements 28 final EIS's filed in December, 1974 and January and February 1975 concerning various alternatives for protecting national interest lands in Alaska through inclusion within the National Park, Wildlife Refuge, National Forest, and Wild and Scenic River Systems. This supplement discusses executive branch actions which include: (1) Presidential proclamation of national monuments under the Antiquities Act, (2) administrative segregation and/or withdrawal of national interest lands under the Federal Land Policy and Management Act, and (3) withdrawal of lands under the Alaskan Native Claims Settlement Act. (DES-78-47) (EPA Order 81149).

The USDI has been granted a waiver of the 45-day review period for the above draft supplement. The approved waiver will allow 25 days for comment. Therefore, the review period will terminate on November 21, 1978.

BUREAU OF RECLAMATION

Final supplement

Frying Pan, Arkansas project, El Paso and Pueblo Counties, Colo., October 18: This statement supplements a final EIS filed in April 1975 concerning the Fountain Valley Conduit in El Paso and Pueblo Counties, Colo. as related to the Frying Pan, Ark. project. The conduit will be 45 miles long and will be used for the conveyance of municipal and industrial waters between Pueblo Dam and the city of Colorado Springs and other Fountain Valley communities. Other features of the plan include: (1) Construction of four pumping plants, and (2) establishment of power supply and substation at each pumping plant. Five alternatives are considered. (FES-78-29) (EPA Order 81133).

GEOLOGICAL SURVEY

Draft

Development of coal resources, central Utah, several counties, Utah, October 20: The proposed action is an analysis of environmental impacts which could result in the central Utah region coal development proposals that require Federal approval. This statement is organized into two parts. Part 1 is an analysis of cumulative impacts of proposed coal developments on Federal lands and associated ancillary facilities. Part 2 is an analysis of the individual proposals. Involved is the Federal approval of nine underground mining and reclamation plans (M&RP's) on existing leases and land use applications associated with the M&RP's. (DES-78-46) (EPA Order 81140).

NATIONAL PARK SERVICE

Draft

Voyageurs National Park, master plan, Koochiching and St. Louis Counties, Minnesota, October 19: Proposed is a master plan for the 138,828-acre Voyageurs National Park in Koochiching and St. Louis Counties, Minn. Features of the plan include, in part: (1) acquiring non-Federal lands within and outside park boundaries; (2) classification of lands and waters; (3) a 217,000 natural zone area; (4) a primitive subzone; (5) outstanding natural, development and natural environment areas; (6) visitor/recreation areas, programs and facilities; and (7) forest fire, natural resource and environmental quality agreements. (DES-78-45) (EPA Order 81135).

Final supplement

Obed Wild and Scenic River, Morgan, Fentress, and Cumberland Counties, Tennessee, October 13: This statement supplements a final EIS filed in October 1976 concerning the establishment of an Obed National Wild and Scenic River in Morgan, Fentress, and Cumberland Counties, Tenn. The statement provides additional information on: (1) The inclusion of 45.2 miles of Obed River, Clear Creek, Daddys Creek, and Emory River, (2) the acquisition of 4,520 acres in the fee and less-than-fee interests of fewer than 2,000 acres in Morgan and Cumberland Counties, (3) the administration by DOI/NPS, and (4) the development of facilities. (FES-78-28) (EPA Order 81138).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

I-180, Hoffman Corridor, Albany and Richmond, Alameda and Contra Costa Counties, Calif., October 16: Proposed is the improvement of the 6-mile route I-180 (17) transportation corridor between Route I-80 near Buchanan Street in Albany and the Richmond-San Rafael Bridge in Alameda and Contra Costa Counties, Calif. All build alternatives under consideration are on the same alignment and would upgrade the present 4-lane highway to a 4- or 6-lane freeway, with or without high-occupancy vehicle lanes, connecting to Route 80. These proposals also involve a 2-mile semidepressed section and seven interchanges. (FHWA-CA-EIS-78-01-D) (EPA Order 81127).

ID-64, Nezperce to Kamiah, Lewis County, Idaho, October 17: Proposed is the replacement or improvement of ID-64 between the communities of Nezperce and Kamiah in Lewis County, Idaho, within the boundary of the Nezperce Indian Reservation. The improved facility would be a secondary State highway consisting of two 12-foot travel lanes with 2-foot shoulders within a 120-foot right of way. The approximate length of the project would vary from 11.7 miles to 15.4 miles depending on the alternative selected of the five being considered. (FHWA-IDA-78-02-D). (EPA Order 81130).

Improved access, Brevard to I-26, Transylvania, Henderson, and Buncombe Counties, N.C. October 17: Proposed is the construction of a new four-lane highway facility to improve access between Brevard and I-26 in Transylvania, Henderson, and Buncombe Counties, N.C. The highway is proposed to be as direct a connection as possible, beginning at the intersection of U.S.-64, U.S.-276, and N.C.-280, approximately 3 miles east of Brevard in Transylvania County and terminating after junctioning with I-26 in Henderson County. For corridor alternatives are under consideration. (FHWA-NC-EIS-78-08-D) (EPA order No. 81132).

Kalanianaole Highway (FAP 72) improvement, Honolulu County, Hawaii. October 18: The proposed action is approval of a recommended improvement to upgrade transportation service capabilities of an existing highway corridor, located in the City and County of Honolulu, Oahu, Hawaii. A configuration of 4 and 6 highway lanes with an at-grade, exclusive and reversible express facility for the use of buses, vanpools, and carpools, depending on the final decision of the number of lanes built, is proposed and will cover a distance of approximately 4.2 miles. In the draft EIS a waterborne marine bus system was being considered, but has been deferred and if it is to be implemented in the future a separate EIS will be prepared. (FHWA-HI-EIS-75-05-D(F)). Comments made by: DOT, HEW, AHP, DOC, EPA, USA, NOAA, USDA, HUD, State and local agencies, groups, individuals and businesses. (EPA order No. 81134).

M-24 extension, Caro—M-25 at Unionville, Tuscola County, Mich. October 16: Proposed is the extension of State trunkline M-24 from its existing northern terminus at M-81 in the village of Caro, northwesterly 14.8 miles to M-25 at the village of Unionville, Tuscola County, Mich. The new rural roadway section would be a 2-lane, free access facility constructed to State trunkline standards within a minimum 150-foot right-of-way. Within Caro, a 5-lane section with curb and gutter would be constructed with a 100-foot right-of-way. In Unionville, the new roadway would consist of four lanes, with curb and gutter, constructed within the existing 66-foot right-of-way. Adverse effects include conversion of 20 acres of farmland to highway use. (FHWA-MI-EIS-77-01-F). Comments made by: DOT, DOI, COE, USDA, EPA, EDA, State and local agencies, groups and individuals (EPA order No. 81126).

TN-1, McMinnville to Sparta, Warren, Van Buren, and White Counties, Tenn. October 20: The proposed action consists of the construction of approximately 20 miles of State Route 1 from just east of McMinnville to Sparta, in Warren, White and Van Buren Counties, Tenn. The proposed project extends northeasterly from a point at the end of the newly constructed section of TN-1, just west of the intersection of TN-1 and TN-30, to an eastern terminus at TN-111 near Sparta. The proposed highway is classified as a principal arterial in Tennessee's "1985 Statewide Functional Highway Classification Plan" and is planned as a four-lane facility. (FHWA-TN-EIS-77-09-F). Comments made by: HUD, HEW, DOI EPA, DOT, TVA, USDA, COE, State agencies (EPA order No. 81142).

INFORMATION SUPPLEMENT

The EPA has received the following report which provides supplemental information on proposals which have fulfilled the NEPA process. Copies of the report are available from the originating agency upon request.

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, Room 3373, 12th and Constitution Avenue NW. Washington, D.C. 20423, 202-275-7692.

EPA No., date received and title

81147, October 20, 1978, Burlington Northern Inc., control and merger, St. Louis-San Francisco Railway Co.

[FR Doc. 78-30786 Filed 10-31-78; 8:45 am]

[7035-01-M]

[Revised S.O. No. 1252; I.C.C. Order No. 68; Amendment No. 1]

FORT WORTH & DENVER RAILWAY CO.

Rerouting of Traffic

To all railroads: Upon further consideration of I.C.C. Order No. 68 (Fort Worth & Denver Railway Co.), and good cause appearing therefor:

It is ordered, That I.C.C. Order No. 68 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed or suspended.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment 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. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 28, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-30899 Filed 10-31-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

ENTERPRISE CAPITAL CORP.

Formation of Bank Holding Company

Enterprise Capital Corp., Enterprise, Ala., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the Citizens Bank, Enterprise, Ala. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 21, 1978.

Board of Governors of the Federal Reserve System, October 25, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30856 Filed 10-31-78; 8:45 am]

[6210-01-M]

MID-TEX BANCSHARES, INC.

Formation of Bank Holding Company

Mid-Tex Bancshares, Inc., Brownwood, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.1 percent of the voting shares of the Southwest State Bank, Brownwood, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1978.

Board of Governors of the Federal Reserve System, October 25, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30857 Filed 10-31-78; 8:45 am]

[6210-01-M]

MILES SERVICE CORP.

Acquisition of Bank

Miles Service Corp., Miles, Iowa, has applied for the Board's approval under section 3 (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)), to acquire 97.7 percent of the voting shares of Miles Savings Bank, Miles, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 25, 1978.

Board of Governors of the Federal Reserve System, October 25, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30858 Filed 10-31-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

PRIVACY ACT OF 1974

Modification of Systems of Records

Pursuant to the delegation of authority published at 40 FR 56983 (December 5, 1975), the General Counsel hereby amends the system notice for FTC-4 and gives notice of the agency's intent to change the equipment configuration of FTC-10. A Report on New Systems for FTC-10 has been transmitted to OMB and the Congress.

The most recent system notices for the two affected systems appear at 43 FR 40111-40112 (September 8, 1978). The following changes are required:

FTC-4

System name: Claimants under Federal Tort Claims Act and Military Personnel and Civilian Employees' Claims Act.

Routine uses of records maintained in the system including categories of users and the purposes of such uses: To determine whether the FTC should honor claims for personal injuries or loss or damage to property in incidents involving FTC employees. Referral to Department of Justice, GSA, or other federal agency when the matter comes within the jurisdiction of such agency. Discussion and correspondence with insurance companies, with other persons or entities that may be liable, with potential witnesses or others having knowledge of the matter.

Record source categories: Information is obtained from claimant, FTC employee involved in incident, other FTC employees or other persons having knowledge of the circumstances, official police report (if any), witnesses, and insurance company representing claimant (if any).

FTC-10

System name: Consumer and Industry Correspondence Files, Division of Credit Practices, Bureau of Consumer Protection.

System location: Division of Credit Practices, 633 Indiana Avenue NW., Washington, D.C. 20580. Comnet, Inc., 5185 MacArthur Blvd., Washington, D.C. 20016.

Storage: Maintained in folders, on credit document coding forms, and on disc.

Retrievability: Folders are indexed by name—usually corporate name. Computer retrievability of the credit document coding form by consumer name, industry name, statute, Equal Credit Opportunity Act categories and statutory violation section will be possible.

Dated: October 25, 1978.

MICHAEL N. SOHN,
General Counsel.

[FR Doc. 78-30883 Filed 10-31-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

MEDICARE AND MEDICAID CONTRACTING

A steering group composed of high level Health Care Financing Administration and Department administrators has recently completed a study concerning the administration of the Medicare and Medicaid programs with respect to selection, monitoring and reimbursement of contractors. The study report discusses recommended changes in the administration of the Medicare and Medicaid programs in order to enhance coordination, improve program management, contain administrative and program costs, and promote effective delivery of services to providers and beneficiaries. Some recommendations require legislation such as combining and fully integrating the administration of Medicare Part A and Part B, while others such as conducting experiments on integrating the administration of the Medicare and Medicaid programs can be implemented administratively. The public is invited to comment on the report and provide input prior to any Agency action. Comments should be submitted by November 30, 1978.

Copies of the report may be obtained from the Health Care Financing Administration, Room 5112, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

Dated: October 26, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc. 78-30811 Filed 10-31-78; 8:45 am]

[4110-08-M]

National Institutes of Health

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the National Diabetes Advisory Board on November 7 and 8, 1978.

The Executive Committee meeting will be held on November 7, 1978, 3 p.m., at the Twin Bridges Marriott, U.S. 1 and I-95, Washington, D.C., Room 470.

The Board meeting will be held on November 8, 1978, 9 a.m., at the Twin Bridges Marriott, U.S. 1 and I-95, Washington, D.C., Commonwealth IV.

The meetings, which will be open to the public, are being held to continue review of the status and implementation of national diabetes programs. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-6045, will provide summaries of the meetings and a roster of the committee members.

Dated: October 25,1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30833 Filed 10-31-78; 8:45 am]

[4110-08-M]

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the National Diabetes Advisory Board on December 12 and 13, 1978, at the Twin Bridges Marriott, U.S. 1 and I-95, Washington, D.C.

The Executive Committee meeting will be held on December 12, 1978. The Board meeting will be held on December 13, 1978. The time of the meetings may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-6045.

The meetings, which will be open to the public, are being held to continue review of the status and implementation of national diabetes programs. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-6045, will provide summaries of the meetings and a roster of the committee members.

Dated: October 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30834 Filed 10-31-78; 8:45 am]

[4110-08-M]

RENEWAL OF THE NATIONAL ADVISORY DENTAL RESEARCH COUNCIL

The Director, National Institutes of Health, announces the renewal of the National Advisory Dental Research Council, under the Authority of section 217 of the Public Health Service Act (42 U.S.C. 218). Such Advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463), setting forth standards governing the establishment and use of advisory committees.

Authority for the above committee will expire on May 31, 1980, unless the Secretary formally determines that continuance is in the public interest.

Dated: October 20, 1978.

DONALD S. FREDRICKSON, M.D.,
Director, National Institutes of Health.

[FR Doc. 78-30835 Filed 10-31-78; 8:45 am]

[4110-08-M]

RENEWAL OF THE NATIONAL ADVISORY GENERAL MEDICAL SCIENCES COUNCIL

The Director, National Institutes of Health, announces the renewal of the National Advisory General Medical Sciences Council, under the Authority of section 443 of the Public Health Service Act (42 U.S.C. 289f). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463), setting forth standards governing the establishment and use of advisory committees.

Authority for the above committee will expire on May 31, 1980, unless the Secretary formally determines that continuance is in the public interest.

Dated: October 20, 1978.

DONALD S. FREDRICKSON, M.D.,
Director, National Institutes of Health.

[FR Doc. 78-30836 Filed 10-31-78; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL DIRECT STUDENT LOAN, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Approved List of Need Analysis Systems

AGENCY: Office of Education, HEW.

ACTION: Notice of Approved Need Analysis Systems.

SUMMARY: The Commissioner of Education announces the list of approved need analysis systems that institutions of higher education must use in making awards to students during the academic year 1979-80 under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grants Programs.

EFFECTIVE DATE: Date of publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Mr. Hubert S. Shaw, Chief, Campus Based Branch, Division of Policy and Program Development, Bureau of Student Financial Assistant, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-9717.

SUPPLEMENTARY INFORMATION:

GENERAL

Section 144.13 of the National Direct Student Loan Program Regulations (45 CFR 144.13), § 175.13 of the College Work-Study Program Regulations (45 CFR 175.13), and § 176.13 of the Supplemental Educational Opportunity Grant Program Regulations (45 CFR 176.13), approve the use of certain need analysis systems and methods of determining expected family contributions for dependent and independent students, and set forth procedures for an annual review and approval by the Commissioner of other need analysis systems for use in those programs. In order to be approved for dependent students the latter systems must generate expected parental contributions for at least 75 percent of the sample cases which are within $50 of the benchmark figures published by the Commissioner for those cases. The benchmark figures for the 1979-80 academic year were published in the FEDERAL REGISTER of August 3, 1978 (43 FR 34145). For independent students, a system that was not specifically included in the regulations must produce expected family contributions which are comparable to those produced by one of the systems specified in subparagraph (c)(1) of each section. An annual review of systems for independent students is not required.

The approved systems are:

1. Dependent students only—

a. The Income Tax System.

2. Dependent and independent students—

a. The method of calculating expected family contributions used in the Basic Educational Opportunity Grant Program (45 CFR 190);

b. The system of need analysis published by the American College Testing Program;

c. The system of need analysis published by Blackhawk College—the David E. Sprenkle System;

d. The system of need analysis published by College Scholarship Service;

e. The system of need analysis published by City University of New York;

f. The system of need analysis published by Financial Analysis Services;

g. The system of need analysis published by Functional Solutions Incorporated;

h. The system of need analysis published by G. E. White Associates;

i. The system of need analysis published by Graduate and Professional School Financial Aid Service;

j. The system of need analysis published by the Illinois State Scholarship Commission;

k. The system of need analysis published by Information & Communications, Inc.—SAFE System;

l. The system of need analysis published by Monroe, the Calculator Co.

m. The system of need analysis published by the Pennsylvania Higher Education Assistance Agency;

n. The system of need analysis published by Student Aid Management, a program of Education Methods, Inc.

(20 U.S.C. 1087dd, 42 U.S.C. 2754, and 20 U.S.C. 1070b—1 and 1070b—2.)

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; 13.463 College Work-Study Program; and 13.471, National Direct Student Loan Program.)

Dated: October 24, 1978.

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

[FR Doc. 78-30887 Filed 10-31-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[DES 78-41]

NEW MEXICO

Additional Public Hearing for Draft Star Lake-Bisti Coal Regional Environmental Statement

At 43 FR 45921 (October 4, 1978), the Department of the Interior, Bureau of Land Management (BLM), announced the availability of the Draft Star Lake-Bisti Regional Coal Environmental Statement (ES) and the holding of public hearings for the proposed rights-of-way of the Star Lake Railroad and the Fruitland Coal Load Transmission Line and the possible development of coal resources in the Star Lake-Bisti Region of northwestern New Mexico.

In addition to the two hearing dates announced in the notice published on October 4, 1978, a public hearing will be held in Crownpoint, N. Mex. The public hearing will convene at 1 p.m. on November 15, 1978, at the Crownpoint Town Hall, Crownpoint, N. Mex.

Oral testimony of 10 minutes maximum length will be accepted from each witness at the hearing in lieu of written comments or in addition to any written comments submitted by each witness. The 10-minute time limitation will be strictly enforced. The complete text of prepared testimony may be filed with the presiding officer at the hearing whether or not the speaker has been able to finish with oral delivery in the alloted 10 minutes.

Speakers will be heard, if present, in their established order on the witness list. After the last listed witness has been heard, the presiding officer will consider the request of any other person present and wishing to testify. Only one witness will be allowed to present the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinions of a private citizen.

Written requests to testify orally should be addressed to the BLM District Manager, Albuquerque District Office, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, N. Mex. 87107. Such requests should identify the organization represented and be signed by the prospective witness, and should be received at the above address prior to the close of business on November 9, 1978.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved: October 27, 1978.

GUY R. MARTIN,
Assistant Secretary
of the Interior.

[FR Doc. 78-30911 Filed 10-31-78; 8:45 am]

[4310-84-M]

[NM 35056, 35059, and 35078]

NEW MEXICO

Applications

OCTOBER 23, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 27 N., R. 27 W.,
Sec. 7, N½NE¼.
T. 31 N., R. 7 W.,
Sec. 10, SW¼SW¼;
Sec. 11, NE¼NW¼;
Sec. 15, NW¼NW¼.

These pipelines will convey natural gas across 0.280 of a mile of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land

Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30862 Filed 10-31-78; 8:45 am]

[4310-84-M]

[NM 35055, 35057, 35058, 35081, 35082, and 35083]

NEW MEXICO

Applications

OCTOBER 23, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 18 S., R. 28 E.,
Sec. 13, NW¼NE¼.
T. 23 S., R. 28 E.,
Sec. 9, SE¼SW¼.
T. 25 S., R. 36 E.,
Sec. 31, SE¼NE¼ and E½SE¼.
T. 26 S., R. 36 E.,
Sec. 6, E½E½;
Sec. 7, NE¼NE¼.

These pipelines will convey natural gas across 2.013 miles of public lands in Eddy and Lea Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30861 Filed 10-31-78; 8:45 am]

[4310-84-M]

[INT DES 78-44]

WYOMING

Availability of Draft Regional Environmental Statement and Holding of Public Hearings for Proposed Development of Coal Resources in Southcentral Wyoming; Correction

This Notice corrects the notice of availability which appeared on page 48084 of the FEDERAL REGISTER dated October 18, 1978. The location and dates of the hearings, request to testify and acceptance of written comments as shown in the Notice is corrected to read as follows:

Hearings for the Southcentral Coal Environmental Statement are to be held on November 21, 1978 at the Jeffrey Memorial Community Center at 1:30 and 7:30 p.m. in Rawlins, Wyo. 82301.

Written request to testify should be received at the Rawlins District Office prior to close of business on November 20, 1978.

Written comments not submitted at the public hearings will be accepted by the Team Leader until December 6, 1978.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

OCTOBER 25, 1978.

[FR Doc. 78-30863 Filed 10-31-78; 8:45 am]

[4310-84-M]

OCTOBER 23, 1978.

[Wyoming 65056]

WYOMING

Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way for one 6⅝-inch O.D. pipeline, three 10¾-inch O.D. pipelines, and one 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 17 N., R. 94 W.,
Sec. 6, lot 1, SE¼NE¼, W½SE¼ and NE¼SE¼;
Sec. 18, lot 7.
T. 18 N., R. 94 W.,
Sec. 6, lots 10, 13, 18, and 21;
Sec. 18, lots 6, 11, 14, 19, and 20;
Sec. 30, lots 5 and 12;
Sec. 32, W½W½
T. 19 N., R. 94 W.,
Sec. 6, lot 3, SE¼NW¼ and E½SW¼;
Sec. 18, E½W½ and N½NE¼;
Sec. 30, E½W½.

These pipelines are proposed in order to increase the capacity to transport a substantial amount of additional natural gas to the main lines through Colorado Interstate Gas Co.'s Wamsutter Regulator facilities in the N½ of section 31, T. 21 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30828 Filed 10-31-78; 8:45 am]

[4310-84-M]

Office of the Secretary

[INT FES 78-31]

NEVADA

Availability of Final Environmental Statement; Proposed 500-MW Coal-Fired Generating Station, North Valmy, Nev.

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental statement on a proposed 500-megawatt (MW) coal-fired, steam-electric generating station near Valmy, Nev.

The statement addresses itself to construction of two 250 MW generation units in Humboldt County, Nev., and two transmission lines to deliver power to substations near Reno and Austin, Nev. The proposal by Sierra Pacific Power Co. also calls for construction of a microwave communications system to service the proposed plant.

The final environmental statement incorporates comments received on the draft environmental statement which was made available to the public May 11, 1978. That draft statement was the subject of public hearings in Winnemucca, Nev., on June 13, 1978, and in Reno on June 15, 1978.

Copies on the final environmental statement are available upon request by writing the Nevada State Director (N-921), Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89509. Copies may also be obtained by writing the Director (130), Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

Copies are available for inspection at the following locations:

Nevada State Office, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89509.
Carson City District Office, 1050 East Williams Street, Carson City, Nev. 89701.
Ely District Office, Star Route 5, Box 1, Ely, Nev. 89301.
Winnemucca District Office, 705 East Fourth Street, Winnemucca, Nev. 89445.
Battle Mountain District Office, P.O. Box 194, Battle Mountain, Nev. 89820.
Elko District Office, 2002 Idaho Street, Elko, Nev. 89801.

Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nev. 89102.

In addition to the above locations, reading copies will be available for the next 45 days at public and university libraries in Battle Mountain, Carson City, Elko, Fallon, Las Vegas, Lovelock, Reno, Wells, and Winnemucca, Nev.

Dated: October 27, 1978.

LARRY E. MEIEROTTE,
Deputy Assistant Secretary.

[FR Doc. 78-30837 Filed 10-31-78; 8:45 am]

[3110-01-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-45]

CERTAIN COMBINATION LOCKS

Notice and Order Concerning Procedure for Commission Determination and Action

Notice is hereby given that—

1. The Commission will hold a hearing beginning at 10 a.m., e.s.t., Friday, December 1, 1978, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C., for the purposes of (1) hearing oral argument on the recommended determination of the presiding officer concerning whether there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337); and (2) receiving oral presentations with respect to the subject matter of § 210.14(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a)) concerning relief, bonding, and the public interest factors set forth in subsections (d) and (f) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which factors the Commission is to consider in the event it determines that relief should be granted. The latter proceeding is legislative in character, and therefore the hearing on remedy, bonding, and public interest will not be subject to the requirements of 5 U.S.C. 556, 557. Instead, this phase of the hearing will be conducted in accordance with § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11). These matters are all being heard on the same day in order that this investigation may be completed within the time limits prescribed by the Statute and to minimize the burden of this hearing upon the parties.

Parties and agencies wishing to make oral argument with respect to the recommended determination shall be limited in each oral argument to not more than 30 minutes, 10 minutes of which may be reserved for rebuttal by the staff and complainant.

For that part of the hearing devoted to relief, bonding, and the public interest, parties, interested persons, and Government agencies will be limited in their presentations to no more than 15 minutes. Participants will be permitted an additional 5 minutes for closing arguments after all presentations have been concluded. The Commission's investigative staff will be allotted the full time available to a party.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than close of business, Friday, November 24, 1978. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination, relief, bonding, the public interest factors, or any combination thereof) in which the requesting person desires to participate.

2. Written submission from the parties, other interested persons, Government agencies and departments, governments, or the public with respect to the recommended determination and the subject matter of subsections (a)(1), (a)(2), and (a)(3) of § 210.14 of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a) (1), (2), and (3)) concerning remedy, bonding, and the public interest will be considered if received by the Commission by Monday, December 11, 1978.

Notice of the Commission's institution of the investigation was published in the FEDERAL REGISTER of February 16, 1978 (43 FR 6945).

By order of the Commission.

Issued: October 27, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-30908 Filed 10-31-78; 8:45 am]

[3110-01-M]

[Investigation No. 337-TA-44]

CERTAIN ROLLER UNITS

Notice and Order Concerning Procedure for Commission Determination and Action

Notice is hereby given that—

1. The Commission will hold a hearing beginning at 10 a.m., e.s.t., Wednesday, November 29, 1978, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C., for the purposes of (1) hearing oral argument on the recommended determination of the presiding officer concerning whether there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337); and (2) receiving oral presentations with respect to the subject matter of § 210.14(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a)) concerning relief, bonding, and the public interest factors set forth in subsections (d) and (f) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which factors the Commission is to consider in the event it determines that relief should be granted. The latter proceeding is legislative in character, and therefore the hearing on remedy, bonding, and public interest will not be subject to the requirements of 5 U.S.C. 556, 557. Instead, this phase of the hearing will be conducted in accordance with § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11). These matters are all being heard on the same day in order that this investigation may be completed within the time limits prescribed by the statute and to minimize the burden of this hearing upon the parties.

Parties and agencies wishing to make oral argument with respect to the recommended determination shall be limited in each oral argument to not more than 30 minutes, 10 minutes of which may be reserved for rebuttal by the staff and complainant.

For that part of the hearing devoted to relief, bonding, and the public interest, parties, interested persons, and Government agencies will be limited in their presentations to no more than 15 minutes. Participants will be permitted an additional 5 minutes for closing arguments after all presentations have been concluded. The Commission's investigative staff will be allotted the full time available to a party.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than close of business, Friday, November 24, 1978. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination, relief, bonding, the public interest factors, or any combination thereof) in which the requesting person desires to participate.

2. Written submission from the parties, other interested persons, Government agencies and departments, governments, or the public with respect to the recommended determination and the subject matter of subsections (a)(1), (a)(2), and (a)(3) of § 210.14 of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a) (1), (2), and (3)) concerning remedy, bonding, and the public interest will be considered if received by the Commission by Friday, December 8, 1978.

Notice of the Commission's institution of the investigation was published in the FEDERAL REGISTER of February 14, 1978 (43 FR 6343).

By order of the Commission.

Issued: October 27, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-30909 Filed 10-31-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Adminstration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Final 1978 Revised Aggregate Production Quotas

Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On September 18, 1978, a notice of the proposed revised aggregate production quotas for 1978 for Anileridine and Ethylmorphine was published in the FEDERAL REGISTER (43 FR 41440). All interested parties were invited to comment on or object to the proposed aggregate production quotas on or before October 23, 1978. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the revised aggregate production quotas for the controlled substances listed below, expressed in grams of anhydrous base, be established as follows:

Basic class	Final 1978 aggregate production quotas
Anileridine	272,000
Ethylmorphine	30,000

This order is effective November 1, 1978.

Dated: October 25, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-30845 Filed 10-31-78; 8:45 am]

[4410-01-M]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

MEETING

In accordance with Executive Order 12022 and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "Commission"), will hold a public meeting on Tuesday, November 14, and Wednesday, November 15, 1978, beginning at 9:30 a.m. on both of the aforesaid days in Room 2141 of the Rayburn House Office Building, Independence and South Capitol Street SW., Washington, D.C.

The purpose of the meeting is to consider matters relating to the Commission's final report to the President and Attorney General. It is anticipated, also, that there will be discussed the work of special study groups that have addressed such subjects as ethical considerations in the litigation of complex antitrust cases and economic implications of existing antitrust immunities and exemptions.

The views of interested persons are solicited in the form of written statements to the Commission. Those who wish their views to be made available to the Commissioners for consideration prior to this meeting should submit 50 copies to the Commission office (Attention: Ms. Deana Harvell), Room 7315, Department of Justice Building, 10th Street and Pennsylvania Avenue NW., Washington, D.C. 20530, to be received no later than November 8, 1978.

Dated: October 27, 1978.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc. 78-30832 Filed 10-31-78; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CHANGE IN DATES FOR PUBLICATION OF SEMIANNUAL AGENDA OF SIGNIFICANT REGULATIONS

EDITORIAL NOTE: The National Foundation on the Arts and the Humanities has changed the dates for the publication of the semiannual agenda of significant regulations. It will publish on the first Monday of November (November 6, 1978), and the first Monday of May (May 7, 1979), instead of November 1, 1978 and April 2, 1979, as previously announced.

[7536-01-M]

NATIONAL COUNCIL ON THE HUMANITIES ADVISORY COMMITTEE

Meeting

OCTOBER 27, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the National Council on the Humanities will be conducted at Washington, D.C., on November 16-17, 1978.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, NW., 1st Floor Conference Room, Washington, D.C. The session of the proposed meeting on November 16, 1978, and the afternoon session on November 17, 1978, will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy. Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

The morning session on November 17, 1978, will convene at 8:30 a.m. and will be open to the public. The agenda for the morning session will be as follows:

MINUTES OF THE PREVIOUS MEETING

REPORTS

A. Chairman's Introductory Remarks and Introduction of Council Nominees and New Staff Members.
B. Summary of Recent Business.
C. Chairman's Grants.
D. Application Report.
E. Gifts and Matching Report.
F. FY 1979 Appropriations.
G. FY 1980 Budget Request to OMB.
H. Ratification of Actions of 48th and 49th Meetings.
I. Evaluation.

The remainder of the proposed meeting will be closed to the public.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

FR Doc. 78-30893 Filed 10-31-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON THE MEDICAL USES OF ISOTOPES

Public Meeting

The Nuclear Regulatory Commission's (NRC) Advisory Committee on the Medical Uses of Isotopes will hold a public meeting at 9 a.m. on Thursday, December 14, 1978, in Room 150, Willste Building, 7915 Eastern Avenue, Silver Spring, Md.

The following agenda is scheduled:

1. Policy and regulatory changes that affect medical licensees. The changes to be discussed include: NRC's medical policy statement; requirement or calibration of teletherapy units; deletion of clinical procedures from Groups, I, II, III of § 35.100, Part 35, Title 10, Code of Federal Regulations; requirement for radiation survey and source count after temporary brachytherapy implants; change in composition and function of Medical Isotopes Committee; requirement to assay all patient doses prior to administration; deletion from Group IV of the use of iodine-131 to treat cardiac dysfunction.

2. Methods of maintaining occupational exposures at medical institutions as low as reasonably achievable (ALARA). The Committee will consider this matter in light of the current discussions of the effects of exposure to low levels of radiation.

3. NRC and Food and Drug Administration (FDA) regulation of medical devices containing radioactive material. This matter will be discussed in view of the Medical Device Amendments of 1976 (Pub. L. 94-295), that give FDA regulatory authority over medical devices.

Practical considerations may dictate alterations in the above agenda.

Mr. Richard Cunningham, Acting Director, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, will serve as Chairperson of the Advisory Committee meeting. Mr. Cunningham is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

The following requirements shall apply to public participation in the agenda items listed above.

1. Persons wishing to submit written statements on agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. Persons wishing to mail written comments may do so by sending at least one readily reproducible copy (preferably 25 copies), to Mr. Cunningham in care of NRC, Washington, D.C. 20555. Comments postmarked no later than December 7, 1978, should be received in time for consideration at the meeting. The minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

2. Persons desiring to make oral statements should make a request to do so prior to the beginning of the meeting, identifying the agenda items and describing the need for the oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive oral statements during a period of not more than 60 minutes at a time chosen by the Chairperson. The Chairperson shall rule on requests to make oral statements and shall apportion the available time among those he selects to make oral statements.

3. Questions may be asked only by Committee members, consultants, and staff.

4. Seating for the public will be on a first-come-first-served basis.

5. Rulings on requests to make oral statements and the time allotted may be obtained by prepaid telephone call to Mr. Cunningham at 301-427-4485 between 9 a.m. and 5 p.m. e.s.t. on December 11, 12, or 13, 1978.

6. Other information regarding the meeting may be obtained by prepaid telephone call to Mrs. Patricia Vecca at 301-427-4232 between 9 a.m. and 5 p.m. e.s.t.

7. A copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 on or before January 31, 1979. Copies of the minutes may be obtained upon payment of required charges.

The meeting is held in accordance with the Atomic Energy Act of 1954, as amended (primarily section 161a), Pub. L. 92-463 (Federal Advisory Committee Act), Executive Order 11769 and the Commission's regulations in Title 10, Code of Federal Regulations, Part 7.

Dated at Washington, D.C., this 26th day of October 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-30817 Filed 10-31-78; 8:45 am]

[7590-01-M]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting of the Subcommittee on the William H. Zimmer Nuclear Power Station

The ACRS subcommitee on the William H. Zimmer Nuclear Power Station will hold a meeting on November 16-17, 1978, at the Holiday Inn, 8050 Highway 42, Florence, Ky. 41094 to review the application of the Cincinnati Gas and Electric Co. for a permit to operate Unit 1 of this station. Notice of this meeting was published on October 20, 1978 (43 FR 49080).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Thursday, November 16 and Friday, November 17, 1978, 3 p.m., November 16, and 8:30 a.m., November 17, until the conclusion of business each day.*

The subcommitee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Cincinnati Gas and Electric Co., and their consultants, pertinent to this review. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard P. Savio, telephone 202-635-3267 between 8:15 a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting

can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Clermont County Library, Third and Broadway Streets, Batavia, Ohio 45103.

Dated: October 26, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-30818 Filed 10-31-78; 8:45 am]

[7590-01-M]

PETITIONS FOR RULEMAKING

Issuance of Quarterly Report

The Nuclear Regulatory Commission has issued the September 30, 1978, quarterly report on petitions for rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

A copy of this report, designated NRC Petitions for Rulemaking Pending Final Action as of September 30, 1978, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Requests for single copies of this report, or requesting to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md. this 26th day of October 1978.

For the Nuclear Regulatory Commission.

JOSEPH M. FELTON,
Director, Division of Rules and Records, Office of Administration.

[FR Doc. 78-30819 Filed 10-31-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-338A, 50-404A, 50-405A]

VIRGINIA ELECTRIC AND POWER CO., OLD DOMINION ELECTRIC COOPERATIVE AND NORTH CAROLINA ELECTRIC MEMBERSHIP CORP.

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Virginia Electric & Power Co., pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on September 1, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns two additional ownership participants, Old Dominion Electric Cooperative and North Carolina Electric Membership Corp. for the North Anna Power Station, Units 1, 2, 3 and 4 located on the south shore of Lake Anna in Louisa County, Va.

The information was filed in connection with the Virginia Electic & Power Co.'s applications for construction permits and operating licenses for the North Anna Power Station, Units 1, 2, 3 and 4. Unit 1 of the station is operating and Units 2, 3 and 4 are under constuction. The information submitted by Virginia Electic & Power Co. is the first part of the application for amendments to the North Anna Power Station, Unit 1 operating license and construction permits for Units 2, 3 and 4.

The original "Notice of Application for Construction Permit and Operating License," for the North Anna Power Station, Units 1 and 2 included the antitrust aspects of the application and was published in the FEDERAL REGISTER on December 30, 1970 (35 FR 19805). The original antitrust portion of the application for Units 3 and 4, "Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters," was published in the FEDERAL REGISTER on October 28, 1971 (36 FR 20709).

A copy of the Virginia Electric & Power Co. letter, dated September 1, 1978, and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Va., 22901 and Office of the Board of Supervisors, Louisa County Courthouse, Main Street (P.O. Box 27), Louisa, Va. 23093.

Information in connection with the antitrust review of this appplication can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Old Dominion Electric Cooperative and North Carolina Electric Membership Corporation presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation on or before January 2, 1979.

Dated at Bethesda, Md, this 23d day of October, 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-30679 Filed 10-31-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 24, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the name of the agency sponsoring the proposed collection of information; the title of each request received; the agency form number(s) if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Baltimore Infant Mortality Study Questionnaire, single-time, mothers of infant deaths and controls, 750 responses; 525 hours, Office of Federal Statistical Policy and Standard, Richard Eisinger, 673-7956.

REVISIONS

DEPARTMENT OF ENERGY

Retail Motor Gasoline Service Station Survey, EIA-79, monthly, selected service stations, 96,000 responses; 24,000 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency, DCPA summer shelter survey employment ques-

tionnaire, on occasion, engineering and architecture students, 2,000 responses; 500 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service, end-of-the-year banding report 3-540, annually, all holders of Federal bird marking and salvage permits, 2,000 responses; 166 hours, Ellett, C.A., 395-6132.

BRENDA A. MAYBERRY,
Acting Budget and Management Officer.

[FR Doc. 78-30827 Filed 10-31-78; 8:45 am]

[3110-01-M]

[FMC 74-4]

COST PRINCIPLES APPLICABLE TO GRANTS AND CONTRACTS WITH STATE AND LOCAL GOVERNMENTS

This notice amends Federal Management Circular 74-4, "Cost principles applicable to grants and contracts with State and local governments," to expand its coverage to include federally recognized Indian tribal governments, to amend the paragraph dealing with general expenses, and to update the contact point for further information on the Circular. This amendment was recommended by the Department of the Interior and various Indian organizations, and has been concurred in by the major grant-making agencies.

1. Attachment A, paragraph A., is revised as follows:

"A. *Purpose and Scope.*

1. *Objectives.* This attachment sets forth principles for determining the allowable costs of programs administered by State, local, and federally recognized Indian tribal governments. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant. They are designed to provide that federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended."

2. Attachment B, paragraph D.6., is revised as follows:

"6. *General expenses.* The salaries and expenses of the Office of the Governor of a State, or the chief executive of a political subdivision, are considered a cost of general State or local government and are unallowable. However, for a federally recognized Indian tribal government, only that portion of the salaries and expenses of the office of the chief executive that is a cost of general government is unallowable. The portion of salaries and expenses directly attributable to managing and operating programs is allowable. The allowable portion shall be determined by the Federal cognizant agency and the Indian government representatives."

3. The basic circular, paragraph 6., is revised as follows:

"6. *Inquiries.* Further information concerning this Circular may be obtained by contacting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone 202-395-6823."

Effective date: This amendment takes effect on November 1, 1978.

JAMES T. MCINTYRE, Jr.,
Director.

[FR Doc. 78-30866 Filed 10-31-78; 8:45 am]

[3110-01-M]

Office of Federal Procurement Policy

LIST OF STAFF TELEPHONE NUMBERS

New telephone numbers for the staff of the Office of Federal Procurement Policy, Office of Management and Budget, are as follows:

Administrator for Federal Procurement Policy, Lester A. Fettig, 212-395-5802.
Executive Assistant to the Administrator, Pauline B. Reeping, 212-395-5802.
Support Staff, Diane May, 212-395-5802.
Assistant for Labor Affairs and Personnel, Michael Martinez, 212-395-6810.
Associate Administrator for Acquisition Law, Thomas F. Williamson, 212-395-3455.
Deputy Associate Administrator (Small and Minority Business), Owen Birnbaum, 212-395-3455.
Special Assistant for Minority Business, Dorothy Dickerson, 212-395-3455.
Support Staff, Regina W. Pruitt, 212-395-3455.
Associate Administrator for Regulations and Procedures, LeRoy J. Haugh, 212-395-6166.
Deputy Associate Administrators, Joseph D. Cohn, Conroy B. Johnson, and Jack A. Nadol, 212-395-6166.
Support Staff, Margaret B. Davis, 212-395-6166.
Associate Administrator for Systems and Technology, Fred H. Dietrich, 212-395-6810.
Deputy Associate Administrator, Herman E. Shipley, 212-395-6810.
Support Staff, Beth E. Strauss, 212-395-6810.
Assistant Administrator for Logistics, James D. Currie, 212-395-7207.
Deputy Assistant Administrators, David F. Baker, William D. Russell, and Joseph F. Zimmer, 212-395-7207.
Support Staff, Barbara F. Bauserman, 212-395-7207.
Assistant Administrator for Regulations, William W. Thybony, 212-395-3300.
Deputy Assistant Administrators, William J. Maraist and Donald J. Vogler, 212-395-3300.
Procurement Systems Analyst, Alexander W. Keema, 212-395-3300.
Project Review Coordinator, Stratos D. Valakis, 212-395-3300.
Support Staff, Brenda F. Harper and Antoinette M. Johnson, 212-395-3300.
Assistant Administrator for Commercial Products, Daniel S. Wilson, 212-395-3254.
Deputy Assistant Administrators, Charles W. Clark and Louis Sorett, 212-395-3254.
Support Staff, Pamela M. Talbot, 212-395-3254.

Dated: Ocotober 24, 1978.

LESTER A. FETTIG,
Administrator.

[FR Doc. 78-30831 Filed 10-31-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20744; 70-6200]

CONNECTICUT LIGHT & POWER CO.

Proposal to Terminate Lease and Acquire Leased Property

OCTOBER 24, 1978.

Notice is hereby given that the Connecticut Light and Power Co. ("CL&P"), Selden Street, Berlin, Conn. 06037, a public utility subsidiary of Northeast Utilities, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designation sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

CL&P is successor lessee of certain gas and electric transmission and distribution property and franchises under the provisions of a lease for a term of 999 years, dated December 19, 1906, ("Lease") made by the Connecticut Railway & Lighting Co. ("CR&L"), as lessor, to the Consolidated Railway Co., as amended by an agreement dated December 30, 1943, between CL&P and CR&L. CL&P presently uses the leased properties and franchises in its business as an electric and gas utility. Pursuant to the Agreement Re Transfer of Leased Properties and Termination of Lease, to secure a release from all of its obligations under the Lease, and to acquire the leased properties, all for a total consideration of $2,800,000. CL&P, as owner of the leased properties, will assume all the obligations or liabilities of CR&L with respect thereto. However, CR&L and its principal shareholder have agreed to indemnify and hold CL&P harmless with respect to all liabilities incurred by CL&P as a result of any of the events contemplat-

ed by section 12(a) of the Agreement. Upon completion of the proposed transaction, CR&L will be dissolved and liquidated pursuant to a plan of complete liquidation which has been approved by its Board of Directors and shareholders. CL&P states that its acquisition of complete title to the leased properties is desirable. As owner of the properties, CL&P will have complete and unfettered discretion with respect to said properties and will not be bound by the lease covenants or by the annual lease payment obligations.

The fees, commissions, and expenses to be incurred in connection with the proposed transaction are estimated at $8,000, including legal fees of $3,000. The proposed termination of the Lease and sale of underlying assets by CR&L is subject to the jurisdiction of the Connecticut Public Utilities Control Authority. It is stated that no other 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, no later than November 17, 1978, 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 filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or order 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. 30813 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 15279; SR-MSE-78-23]

MIDWEST STOCK EXCHANGE, INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

OCTOBER 24, 1978.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on September 25, 1978, the Midwest Stock Exchange, Inc., ("MSE"), 120 South LaSalle Street, Chicago, Ill. 60603, filed with the Commission copies of a proposed rule change which provides that during the pendency of an underwritten distribution of the securities underlying call options trade on the MSE, the MSE shall impose trading restrictions on certain discount opening uncovered writing transactions in such options ("discount option transactions"). If specified conditions are met, the MSE would impose restrictions on discount option transactions commencing at the time the MSE is advised by the issuer or underwriter (or the Secretary of the MSE is otherwise notified) that the underwriters have initiated stabilizing activities in the underlying securities and terminating upon the termination of such stabilizing activities.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSE-78-23.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchange, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof, in that it is consistent with proposed rule changes, recently approved by the Commission, relating to the imposition of restrictions on discount option transactions by both the Chicago Board Options Exchange, Inc.[1] and The American Stock Exchange, Inc.[2]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above 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. 78-30814 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 20746; 70-5678]

NATIONAL FUEL GAS CO., ET AL.

Post-Effective Amendment Regarding Proposed Intrasystem Transfer of Assets and Related Transactions

OCTOBER 24, 1978.

In the matter of National Fuel Gas Co., 30 Rockefeller Plaza, New York, N.Y. 10020; National Fuel Gas Distribution Corp., 10 Lafayette Square, Buffalo, N.Y. 14203; and National Fuel Gas Supply Corp., 308 Seneca Street, Oil City, Pa. 16301.

Notice is hereby given that National Fuel Gas Co. ("National"), a registered holding company, and two of its subsidiary companies, National Fuel Gas Distribution Corp. ("Distribution") and National Fuel Gas Supply Corp. ("Supply"), have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, and 12 of the Act and rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated June 9, 1975, and June 16, 1975 (HCAR Nos. 19031 and 19044), National was authorized to issue and sell, subject to the competitive bidding requirements of rule 50 promulgated under the Act, $21,000,000 principal amount of 9 percent Debentures, Series due June 1984, and Distribution and Supply were authorized to issue

[1] Securities Exchange Act Release No. 14842 (June 12, 1978), 43 FR 26647 (June 21, 1978).

[2] Securities Exchange Act Release No. 15032 (August 4, 1978), 43 FR 35775 (August 11, 1978).

and sell corresponding notes to National having a maturity date of June 15, 1984, and aggregating $15,116,600 and $5,883,400, respectively.

By post-effective amendment to the application-declaration in this proceeding, it is now proposed that certain properties of Distribution which actually serve gas supply functions be transferred to Supply and that certain properties of Supply which actually serve gas distribution functions be transferred to Distribution. Because the value of properties to be transferred to Distribution exceeds the value of properties to be transferred to Supply, it is also proposed that Distribution will assume existing indebtedness of Supply to National in a principal amount equal to such excess. The indebtedness to be assumed will be a portion of the indebtedness issued by Supply to National as previously authorized in this proceeding. The proposed transfers of properties are stated to be in furtherance of the 1974 reorganization of National and its subsidiaries approved by this Commission in another proceeding (HCAR Nos. 18484 and 18499 (July 5, 1974, and July 15, 1974)) and are intended to rectify minor oversights in, and reflect changes in use after, the 1974 reorganization.

Distribution proposes to transfer by sale to Supply certain pipeline segments and associated regulator and measuring stations which actually serve supply functions rather than distribution functions. A detailed description and a map indicating the location of each of these facilities are included in the post-effective amendment to the application-declaration. The consideration to be received by Distribution will be equal to the original cost of the assets to be transferred by sale to Supply net of applicable accumulated reserves and deferred taxes at the date of transfer. Such consideration will consist entirely of a portion of the property to be transferred by Supply to Distribution similarly valued at original cost net of applicable accumulated reserves and deferred taxes at the date of transfer. On the basis of September 30, 1977, data, the net book value of the consideration to be received from Supply would be $481,957.25.

Supply proposes to transfer by sale to Distribution certain pipeline segments and associated regulator, measuring, and dispatching stations, a building, and certain land rights, which actually serve distribution functions rather than supply functions. A detailed description and a map indicating the location of each of these facilities are also included in the filing. The consideration to be received by Supply will be equal to the original cost of the assets to be transferred by sale to Distribution net of applicable accumulated reserves and deferred taxes at the date of transfer. Such consideration will consist of (a) the property to be transferred by Distribution to Supply, as noted above, similarly valued at original cost net of applicable accumulated reserves and deferred taxes at the date of transfer, and (b) assumption by Distribution of certain indebtedness of Supply to National. The principal amount of indebtedness to be assumed will equal the net book value of property transferred to Distribution less the net book value of property received by Supply. On the basis of September 30, 1977, data, the net book value of the property to be received from Distribution would be $481,967.25, and the principal amount of indebtedness to be assumed by Distribution would be $2,475,773.37, which amounts together equal the net book value of the property to be transferred by Supply to Distribution.

The indebtedness to be assumed by Distribution will be a portion of the indebtedness issued by Supply to National on June 25, 1975, as part of the National Fuel Gas system's most recent long-term debt financing in which Supply issued long-term notes. As part of that same financing, Distribution issued to National on the same date, a note having similar terms. (As noted above, such transactions were authorized in this proceeding.) The form of note to be issued by Distribution to National will be identical to the form of note already issued by Distribution in conjunction with the 1975 debt financing excepting only the principal amount. The note to be issued will bear interest at the rate of 9.2 percent and will mature on June 15, 1984.

The applicants-declarants request that the time for filing the certificate under rule 24(a) respecting the proposed transactions be extended to 60 days after consummation of such transactions to permit preparation of financial statements and schedules of total fees and expenses.

It is stated that the Federal Energy Regulatory Commission has jurisdiction over the proposed acquisitions and abandonments by Supply to be effected by the proposed transfers of assets; that the New York Public Service Commission has jurisdiction over the proposed transfers of assets and issuance of securities; and that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transfers of assets and issuance of securities. A complete statement of the fees and expenses to be incurred in connection with the proposed transactions is to be filed by amendment.

Notice is further given that any interested person may, not later than November 30, 1978, 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 of law raised by the post-effective amendment 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 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 application-declaration, as now 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 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. 78-30815 Filed 10-31-78; 8:45 am]

[8010-01-M]

[Release No. 34-15281; File No. SR-SCCP-78-5]

STOCK CLEARING CORP. OF PHILADELPHIA

Self Regulatory Organization; 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 ("the Act") by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on October 16, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Stock Clearing Corp. of Philadelphia (SCCP) proposes a rule change which will enable it to make the system changes necessary for linkage with the newly formed Philadelphia Depository Trust Co. This proposed change to Rule 5 provides that members may no longer elect trade-for-trade settlement, but will be required to use the Continuous Net Settlement (CNS) system.

The text of the proposed rule change is attached hereto as Exhibit 1.

STATEMENT OF BASIS AND PURPOSE

The purpose of the foregoing rule change is to provide more efficient clearing through the interface of SCCP with the newly formed Philadelphia Depository Trust Co.

The proposed rule change will enable SCCP to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible in accordance with the purposes set forth in section 17A(b)(3)(F) of the Act.

Formal comments from members have been solicited in accordance with the bulletin attached as Exhibit 4 to SCCP's filing.

SCCP believes that no burden on competition will be imposed by the proposed rule change.

SCCP has requested the Commission to exercise its authority under section 19(b)(2) of the Act to approve the proposed rule change prior to November 13, 1978. Section 19(b)(2) of the Act requires the Commission to find good cause for so doing and to publish its reasons for so finding. SCCP believes that accelerated approval is necessary in order to improve its competitive position with other clearing agencies by providing more efficient services.

Within 35 days of the October 31, 1978, publication of this notice in the FEDERAL REGISTER (December 5, 1978), or within such longer period (i) as the Commission may designate up to 90 days of such date (January 29, 1978), if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549.

Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 15, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 26, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

TEXT OF PROPOSED RULE CHANGE

The text of the proposed rule change is as follows (italics indicate new material and brackets indicate deletions): Rule 5. *In order to enable Stock Clearing Corporation of Philadelphia (SCCP) to make the system changes necessary for linkage with the newly formed Philadelphia Depository Trust Company, members no longer may elect trade-for-trade clearance. Members settling transactions at SCCP are required to use Continuous Net Settlement (CNS).*

[Members may elect trade-for-trade Clearance or Continuous Net Settlement (CNS). For trade-for-trade clearance on settlement day, delivery of securities by the selling clearing member pursuant to each sale shall be due at Stock Clearing Corporation at the exact sale price. Stock Clearing Corporation will prepare a duplicate delivery ticket for each such transaction, listing thereon the date, member's clearing number, number of shares, name of security, and amount of sale. These delivery tickets will be distributed to selling members prior to settlement date. The member shall enter on each delivery ticket the number and number of shares of each certificate delivered and attach ticket to the securities. Upon presentation at Stock Clearing Corporation, the member's copy of the delivery ticket will be receipted and returned to member.]

For CNS clearance members may deliver to Stock Clearing Corporation any portion of securities due on settlement date. Stock Clearing Corporation will provide members with appropriate receipt for securities delivered. Prior to settlement date, member will be notified of securities owed to Stock Clearing Corporation.

[Likewise, for trade-for-trade clearance, on settlement day, delivery of round-lots of securities by Stock Clearing Corporation to buying clearing members shall be due at the exact purchase prices. Stock Clearing Corporation will list as above each delivery of securities made to buying member on duplicate delivery tickets, and shall retain one copy with the member's receipt for the securities.]

[Also, for trade-for-trade clearance, on settlement day, payment in full for the total of all odd-lot purchases due for settlement that day shall be made by each member to Stock Clearing Corporation. Delivery of the securities will be made only upon receipt of instructions for transfer or for delivery of street certificates.]

For [member who elect] CNS settlement, Stock Clearing Corporation may deliver any portion of amount owed to member and obtain appropriate receipt from the member.

The last eight paragraphs of the present Rule 5 remain unchanged.

[FR Doc. 78-30816 Filed 10-31-78; 8:45 am]

[8015-01-M]

SELECTIVE SERVICE SYSTEM

REPORT

Pursuant to Executive Order 12044, Section 5(a)

The draft report was published in the FEDERAL REGISTER on April 11, 1978 at page 15212. No comment was received within 60 days after the publication. The draft report without change is made the report.

Regulations issued by the Selective Service System may be divided into five groups:

Group 1 consists of 32 CFR Part 1700—Reconciliation Service. These regulations were issued by the Director of Selective Service pursuant to Executive Order 11804 to provide a program of reconciliation service in accord with Proclamation 4313. They will be terminated when persons now in the program complete their service which is estimated to be December 1978.

Group 2 consists of 32 CFR Part 1690—Determination of Availability of Members of the Standby Reserve of the Armed Forces for Order to Active Duty. These regulations were issued by the Director pursuant to 10 U.S.C. 672(a), and were issued without opportunity for public comment. They are exempt from the provisions of Executive Order 12044 by section 6(b)(2) thereof.

Group 3 consists of 32 CFR Part 1060—Alternate Service. These regulations are issued by the Director pursuant to section 6(j) of the Military Selective Service Act (50 App. U.S.C. 456(j)). These reglations are issued in accord with procedures prescribed in section 13(b) of the Military Selective Service Act (50 App. U.S.C. 463(b)). Not less than 30 days are allowed for public comment on proposed changes to these regulations.

Group 4 consists of 32 CFR sections 1604.23, .25-28, .53, .55-59, .81; Parts 1608, 1613, 1617, 1619; and sections 1621.2 and .3. These regulations are issued by the Director pursuant to Executive Order 9979 (32 CFR 1604.1) in accord with procedures prescribed in section 13(b) of the Military Selective Service Act (50 App. U.S.C. 463(b)). Not less than 30 days are allowed for public comment on proposed changes to these regulations.

Group 4 consists of 32 CFR Chapter XVI other than sections and parts thereof identified above. These regulations are issued by the Director in accord with procedures prescribed in Executive Order 11623 and section 13(b) of the Military Selective Service Act (50 App. U.S.C. 463(b)). Not less than 30 days are allowed for public comment on proposed changes to these regulations.

All regulations issued by the Director are considered "significant agency regulations" for the purposes of section 2, Executive Order 12044.

The Director only issues regulations necessary to implement the Military Selective Service Act (50 App. U.S.C. 451 *et seq.*), 10 U.S.C. 672(a) and Executive Order 11804.

In accord with Executive Order 12044, at least 60 days will be allowed for comment on proposed regulations in the future.

The Selective Service System currently is neither registering nor otherwise processing persons for induction. Regulations other then 32 CFR Parts 1700 and 1608 are essentially in a standby status that do not require reexamination pending statutory enactment or Presidential Proclamation directing the resumption of registration. 32 CFR Part 1700, Group 1, above, will probably be terminated in December 1978. Prior change is not indicated.

32 CFR Part 1608—Public Information has daily application. It was last amended on October 7, 1976. Experience in the administration of this part does not indicate the desirability of further revision within the foreseeable future.

ROBERT E. SHUCK,
Acting Director.

[FR Doc. 78-30841 Filed 10-31-78; 8:45 am]

[4710-08-M]

DEPARTMENT OF STATE

[Public Notice 638]

LEGAL ADVISER

Delegation of Authority No. 142

By virtue of the authority vested in me by the Act of June 20, 1874 (18 Stat. 90, 22 U.S.C. 2664), by section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), as amended, and by Executive Order 11517 (35 FR 4937), I hereby delegate to the Legal Adviser all the authority and functions vested in the Secretary of State by Executive Order 11517, which relates to issuance and signature of warrants appointing agents to return fugitives from justice extradited to the United States. Notwithstanding this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any authority conferred upon the Secretary of State by Executive Order 11517.

This delegation of authority supersedes Department of State Delegation of Authority No. 130 of July 22, 1974 (Public Notice No. 426, 39 FR 27922).

Dated: October 13, 1978.

CYRUS R. VANCE,
Secretary of State.

[FR Doc. 78-30864 Filed 10-31-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Corrected S.O. No. 1304; Exception No. 12]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Decision

To the Atchison, Topeka & Santa Fe Railway Co.: The Atchison, Topeka & Santa Fe Railway Co. (ATSF) owns 13,300 jumbo covered hopper cars subject to Corrected Service Order No. 1304. On October 1, 1978, 180 or 0.14 percent of these cars were being used in unit-grain-train services and 13,120 for transporting grain and potash.

On October 6, 1978, the ATSF reported that it had a surplus of jumbo covered hopper cars available for general grain traffic but that because of the provisions of Corrected Service Order No. 1304 limiting to twenty (20) percent of ownership the number of jumbo covered hopper cars it may use in unit-grain-train services, it is unable to furnish an additional 650 cars to assist other lines in transporting grain in unit-grain-trains routed via its line. Use by ATSF of 650 of its cars in unit-grain-train service will not impair its ability to furnish jumbo covered hopper cars to general grain shippers at the present level of orders for these cars.

It is ordered, That pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service Order No. 1304, The Atchison, Topeka & Santa Fe Railway Co. (ATSF) is authorized to place an additional 650 jumbo covered hopper cars in unit-grain-train service for five (5) trips regardless of the provisions of section (a)(5) of this order.

By the Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member John R. Michael not participating.

Effective October 10, 1978.

Expires December 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

FR Doc. 78-30899 Filed 10-31-78; 8:45 am]

[7035-01-M]

[Revised S.O. No. 1252; I.C.C. Order No. 69, Amendment No. 1]

CHESAPEAKE & OHIO RAILWAY CO.

Rerouting Traffic

To the Chesapeake & Ohio Railway Co. Upon further consideration of I.C.C. Order No. 69 (The Chesapeake & Ohio Railway Co.), and good cause appearing therefor:

It is ordered, That I.C.C. Order No. 69 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed, or suspended.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment 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. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-30897 Filed 10-31-78; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter-Notices

OCTOBER 25, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before November 13, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a

gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 112304 (Sub-E555) (Correction), filed July 11, 1978, published in the FEDERAL REGISTER issue of September 13, 1978, and republished, as corrected, this issue. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending north along Interstate Hwy 75 to junction with Green River Parkway, then north along to junction U.S. Hwy 60 BYP, then west along U.S. Hwy 60 BYP to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in VT. "Limitation: The certificate in MC-112304 (Sub-65) shall be of no further force and effect after August 9, 1980." (Gateway eliminated: Evansville, IN.)

NOTE.—The purpose of this republication is to clarify Interstate Hwy 75 which read as Interstate Hwy 65 in FEDERAL REGISTER publication.

MC 117574 (Sub-E160), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same address as above). (1) *Stone crushing equipment and automatic unloading equipment*, the transportation of which because of their size or weight, require the use of special equipment, and *related materials, supplies and parts of such commodities* when their transportation is incidental thereto, and (2) *self-propelled stone crushing equipment and self-propelled automatic loading equipment* weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted in (2) to articles transported on trailers, (A) between points in the Counties of Macomb, Oakland, and Wayne, MI, on the one hand, and, on the other, points in AZ, CA, CO, CT, DE, ID, KS, LA, ME, MD, MA, MS, MT, NV, NH, NJ, NY, NM, NC, ND, OK, RI, TN, TX, UT, VT, WA, WY, and DC, and those points in IL on and south of a line beginning at the IL-IN State line on IL Hwy 15, then along IL Hwy 15 to junction IL Hwy 127, then along IL Hwy 127 to junction IL Hwy 140, then along IL Hwy 140 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the IL-MO State line; points in IN on and south of a line beginning at the IN-KY State line on U.S. Hwy 31E, then along U.S. Hwy 31E to junction IN Hwy 62, then along IN Hwy 62 to junction IN Hwy 64, then along IN Hwy 64 to the IL-IN State line, points in MO on and south of a line beginning at the IL-MO State line on U.S. Hwy 67, then along U.S. Hwy 67 to junction MO Hwy 140, then along MO Hwy 140 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction U.S. Hwy 69, then along U.S. Hwy 69 to junction U.S. Hwy 136, then along U.S. Hwy 136 to the MO-NE State line, points in NE on and north and east of a line beginning at the MO-NE State line on U.S. Hwy 136, then along U.S. Hwy 136 to junction U.S. Hwy 81, then along U.S. Hwy 81 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 281, then along U.S. Hwy 281 to junction NE Hwy 92, then along NE Hwy 92 to junction NE Hwy 11, then along NE Hwy 11 to junction NE Hwy 91, then along NE Hwy 91 to junction U.S. Hwy 183, then along U.S Hwy 183 to the NE-SD State line, points in PA on and east of U.S. Hwy 15, and points in SD on and west of a line beginning at the NE-SD State line on U.S. Hwy 183, then north along U.S Hwy 183 to junction SD Hwy 44, then along SD Hwy 44 to junction U.S. Hwy 281, then along U.S. Hwy 281 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the ND-SD State line; (B) between Battle Creek, MI, on the one hand, and, on the other, points in AZ, CA, CT, DE, ID, LA, ME, MD, MA, NV, NH, NJ, NM, NY, NC, OR, RI, TX, UT, VT, WA, and DC, points in AR on and south of a line beginning at the AR-MS State line on U.S Hwy 82, then along U.S. Hwy 82 to junction U.S. Hwy 65, then along U.S. Hwy 65 to junction U.S. Hwy 270, then along U.S. Hwy 270 to the AR-OK State line; points in CO on and west of a line beginning at the CO-KS State line on CO Hwy 96, then along CO Hwy 96 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction CO Hwys 13 and 789, then along CO Hwys 13 and 789 to the CO-WY State line; points in KS on and west of a line beginning at the KS-OK State line on U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction KS Hwy 25, then north along KS Hwy 25 to junction KS Hwy 96, then along KS Hwy 96 to the CO-KS State line; points in MS on and south of a line beginning at the AL-MS State line, on U.S. Hwy 72, then along U.S. Hwy 72 to junction U.S. Hwy 45, then along U.S. Hwy 45 to junction with the Natchez Trace National Parkway, then along the Natchez Trace National Parkway to junction U.S. Hwy 82, then along U.S. Hwy 82 to the AR-MS State line; points in MT on and west of a line beginning at the MT-WY State line on U.S. Hwy 310, then along U.S. Hwy 310 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction MT Hwy 19, then along MT Hwy 19 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 2, then along U.S. Hwy 2 to junction MT Hwy 247, then along MT Hwy 247 to the United States-Canadian Border; points in OK on and south of a line beginning at the AR-OK State line on U.S. Hwy 270, then along U.S. Hwy 270 to junction U.S. Hwy 183, then along U.S. Hwy 183 to the KS-OK State line; points in PA on and east of U.S. Hwy 15; points in TN on and east of U.S. Hwy 127, and points in WY on and west of a line beginning at the CO-WY State line on WY Hwy 789, then along WY Hwy 789 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to the MT-WY State line. (Gateway eliminated: Galion, OH.)

MC 117574 (Sub-E161), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013, Representative: E. S. Moore, Jr. (same as above). *Tractors* (other than truck tractors), *parts of such tractors and incidental machinery* when moving therewith, and *trailers designed for the transportation of the tractors described above*, the transportation of which because of size or weight, require the use of special equipment, *and/or related materials, supplies and/or parts of such commodities* when their transportation is incidental thereto, *and/or self-propelled tractors* (other than truck tractors) each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection with such tractors, restricted to self-propelled tractors only when moving on trailers, (1) between Battle Creek, MI, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, LA, MS, NV, NM, NC, OK, SC, TX, UT, WY, and all points in the following partially described states; points in KS on, south and west of a line beginning at the KS-NE State line on U.S. Hwy 283, then along U.S. Hwy 283 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction U.S. Hwy 81, then along U.S. Hwy 81 to junction U.S. Hwy 24, then along U.S.

Hwy 24 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction U.S. Hwy 54, then along U.S. Hwy 54 to the KS-MO State line; points in MO on and south of a line beginning at the KS-MO State line on U.S. Hwy 54, then along U.S. Hwy 54 to junction MO Hwy 13, then along MO Hwy 13 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction MO Hwy 53, then along MO Hwy 53 to junction MO Hwy 84, then along MO Hwy 84 to the Mississippi River and the MO-TN State line; points in NE on and west of a line beginning at the NE-SD State line on U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction NE Hwy 7, then along NE Hwy 7 to junction NE Hwy 91, then along NE Hwy 91 to junction NE Hwy 2, then along NE Hwy 2 to junction NE Hwy 21, then along NE Hwy 21 to junction U.S. Hwy 283, then along U.S. Hwy 283 to the KS-NE State line; points in SD on and west of a line beginning at the NE-SD State line on U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 18, then along U.S. Hwy 18 to junction SD Hwy 47, then along SD Hwy 47 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction U.S. Hwy 281, then along U.S. Hwy 281 to the ND-SD State line; points in TN on and south of a line beginning at the MO-TN State line on the Mississippi River on TN Hwy 20, then along TN Hwy 20 to junction TN Hwy 99, then along TN Hwy 99 to junction Alt. U.S. Hwy 41, then along Alt. U.S. Hwy 41 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction TN Hwy 33, then along TN Hwy 33 to the TN-VA State line; points in VA on and south of a line beginning at the VA-WV State line on U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 460, then along U.S. Hwy 460 to Norfolk, VA, and the Chesapeake Bay and the Atlantic Ocean. (Gateways eliminated: points in an 80-mile circle of Columbus, OH (Ottowa, OH) and points of Churubusco, IN or 5 miles east thereof on U.S. Hwy 33). (2) Between Benton Harbor, MI, on the one hand, and, on the other, points in AZ, CA, FL, NV, SC, UT, and DC, and points in the following described states; points in AL on and south of a line beginning at the AL-GA State line on AL Hwy 26, then along AL Hwy 26 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the AL-MS State line; points in CO on and west of a line beginning at the CO-NM State line on I Hwy 25, then along I Hwy 25 to junction CO Hwy 69, then along CO Hwy 69 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction CO Hwy 92, then along CO Hwy 92 to junction CO Hwy 65, then along CO Hwy 65 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction CO Hwy 13, then along CO Hwy 13 to the CO-WY State line; points in GA on and east of a line beginning at the GA-NC State line on U.S. Hwy 441, then along U.S. Hwy 441 to Athens, and junction with U.S. Hwy 78, then along U.S. Hwy 78 to junction GA Hwy 11, then along GA Hwy 11 to junction GA Hwy 83, then along GA Hwy 83 to junction U.S. Hwy 341, then along U.S. Hwy 341 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the AL-GA State line; points in LA on and south of a line beginning at the LA-MS State line on U.S. Hwy 61, then along U.S. Hwy 61 to junction LA Hwy 10, then along LA Hwy 10 to junction U.S. Hwy 171, then along U.S. Hwy 171 to junction LA Hwy 8, then along LA Hwy 8 to the LA-TX State line; points in MS on and south of a line beginning at the AL-MS State line on U.S. Hwy 84, then along U.S. Hwy 84 to junction MS Hwy 27, then along MS Hwy 27 to junction MS Hwy 44, then along MS Hwy 44 to junction MS Hwy 24, then along MS Hwy 24 to junction U.S. Hwy 61, then along U.S. Hwy 61 to the LA-MS State line; points in NM on and west of a line beginning at the NM-TX State line on U.S. Hwy 66, then along U.S. Hwy 66 to junction NM Hwy 39, then along NM Hwy 39 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction I Hwy 25, then along I Hwy 25 to the CO-NM State line; points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 221, then along U.S. Hwy 221 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 23, then along U.S. Hwy 23 to the GA-NC State line; points in TX on, south and west of a line beginning at the LA-TX State line on TX Hwy 63, then along TX Hwy 63 to junctions U.S. Hwy 190, then along U.S. Hwy 190 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 385, then along U.S. Hwy 385 to junction U.S. Hwy 66, then along U.S. Hwy 66, to the NM-TX State line; points in VA on, south and east of a line beginning at the Potomac River on U.S. Hwy 301, then along U.S. Hwy 301 to junction VA Route 3, then along VA Route 3 to junction VA Route 20, then along VA Route 20 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 21, then along U.S. Hwy 21 to the NC-VA State line; and points in WY on and west of a line beginning at the MT-WY State line on U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY 430, then along WY 430 to the CO-WY State line. (Gateways eliminated: points in an 80-mile circle of Columbus, OH (Ottowa, OH) and points on U.S. Hwy 33 5 miles east of Churubusco, IN). (3) Between point, in OH on and south of I Hwy 70, on the one hand, and, on the other, points in the states of AZ, CA, CO, NE, NV, NM, SD, UT, WY, and points in the following described states: points in KS on and west of a line beginning at the KS-MO State line on U.S. Hwy 59, then along U.S. Hwy 59 to junction KS Hwy 4, then along KS Hwy 4 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 75, then along U.S. Hwy 75 to junction I Hwy 35, then along I Hwy 35 to junction U.S. Hwy 77, then along U.S. Hwy 77 to the KS-OK State line; points in OK on and west of a line beginning at the KS-OK State line on U.S. Hwy 77, then along U.S. Hwy 77 to junction U.S. Hwy 177, then along U.S. Hwy 177 to junction OK Hwy 13, then along OK Hwy 13 to junction OK Hwy 3, then along OK Hwy 3 to junction U.S. Hwy 75, then along U.S. Hwy 75 to the OK-TX State line; and, points in TX on and west of a line beginning at the OK-TX State line on U.S. Hwy 75, then along U.S. Hwy 75 to Galveston and the Gulf of Mexico. (Gateways eliminated: point on U.S. Hwy 33, 5 miles east of Churubusco, IN). (4) Between points in that part of OH bounded by a line beginning at I Hwy 70 at the OH-IN State line, extending along I Hwy 70 to the Ohio River, then along the Ohio River to the OH-PA State line, to OH Hwy 5, then along OH Hwy 5 to junction OH Hwy 44, then along OH Hwy 44 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction OH Hwy 61, then along OH Hwy 61 to junction OH Hwy 98, then along OH Hwy 98 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction OH Hwy 67, then along OH Hwy 67 to junction I Hwy 75, then along I Hwy 75 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction OH Hwy 29, then along OH Hwy 29 to the IN-OH State line, then along the IN-OH State line to the point of origin, on the one hand, and, on the other, points in AZ, AR, CA, CO, KS, LA, NE, NV, NM, OK, SD, UT, TX, WY, and points in the following described states: points in AL on and south of a line beginning at the AL-MS State line on U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 31, then along U.S. Hwy 31 to junction AL Hwy 41, then along AL Hwy 41 to the AL-FL State line; points in FL on and west of a line beginning at the AL-FL State line on FL Hwy 85, then along FL Hwy 85 to the Gulf of Mexico; and points in MS on and west of a line beginning at the AR-MS State line on U.S. Hwy 49, then along U.S. Hwy 49 to junction

U.S. Hwy 49E, then along U.S. Hwy 49E to junction U.S. Hwy 82, then along U.S. Hwy 82 to junction MS Hwy 35, then along MS Hwy 35 to junction MS Hwy 18, then along MS Hwy 18 to the AL-MS line. (Gateway eliminated: point 5 miles east of Churubusco, IN on U.S. Route 33). (5) Between points in OH on and north of a line beginning at the OH-PA State line on OH Hwy 5, then along OH Hwy 5 to junction OH Hwy 44, then along OH Hwy 44 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction OH Hwy 61, then along OH Hwy 61 to junction OH Hwy 98, then along OH Hwy 98 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction OH Hwy 67, then along OH Hwy 67 to junction I Hwy 75, then along I Hwy 75 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction OH Hwy 29, then along OH Hwy 29 to the IN-OH State line, on the one hand, and, on the other, all points in AL, AZ, AR, CA, CO, KS, LA, MS, NE, NV, NM, OK, SD, UT, TX, WY, and points in the following described states: points in FL on and west of a line beginning at the FL-GA State line on U.S. Hwy 41, then along U.S. Hwy 41 to junction FL Hwy 100, then along FL Hwy 100 to the Atlantic Ocean; points in GA, on and west of a line beginning at the GA-TN State line on U.S. Hwy 41, then along U.S. Hwy 41 to the FL-GA State line; and points in TN on and west of a line beginning at the KY-TN State line on U.S. Hwy 41, then along U.S. Hwy 41 to the GA-TN State line. (Gateway eliminated: point 5 miles from Churubusco, IN on U.S. Hwy 33 (East)).

MC 117574 (Sub-E162), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). (1) *Such commodities* as by reason of their size or weight require the use of special equipment (except machinery, equipment, materials, and supplies used in or in connection with, the construction, operations, repair, servicing, maintenance, and dismantling of pipelines) and *related materials, supplies and parts* of such commodities when their transportation is incidental thereto, and, (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted in (2) to the transportation of commodities which are transported on trailers, and further restricted against the transportation of machinery, equipment, materials, and supplies used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, between points in CT, ME, MA, NH, and VT, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, and WI. (Gateways eliminated: points in OH (Gallipolis and Norwalk) and points in described area of PA (Bradford and Lewistown, PA).

MC 123407 (Sub-E549), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials, supplies and accessories* used in the installation thereof (except commodities in bulk, commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, and ID to points in OH, PA, and points in IN on and north of IN Hwy 64. (Gateway eliminated: Superior, WI).

MC 123407 (Sub-E582), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Windows, doors, building woodwork and materials and accessories* used in the installation thereof (except commodities in bulk and commodities because of size or weight require the use of special equipment or special handling), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, to points in MI, IN, OH, PA, NY, VT, NH, MA, ME, MS, CT, RI, NJ, DE, MD, DC, WV, VA, KY, TN, NC, SC, and AL. (Gateway eliminated: Dubuque, IA).

MC 123407 (Sub-E591), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Windows, doors, building woodwork, and materials and accessories* used in the installation thereof (except commodities in bulk and commodities because of size or weight, require the use of special equipment or special handling), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Columbus, OH, to points in WA, OR, ID, WY, CA, NV, UT, AZ, CO, and NM. (Gateway eliminated: Dubuque, IA).

MC 123407 (Sub-E634), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board, materials and accessories* used in the installation of composition board and ceiling tile (except lumber, commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in TX, to points in ME, NH, VT, MA, RI, CT, NY, NJ. (Gateway eliminated: Dubuque, IA).

MC 124154 (Sub-E9), filed June 5, 1978. Applicant: WINGATE TRUCKING CO., INC., 1004 21st Avenue, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL. 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between points in AL north of US Hwy 278, on the one hand, and, on the other, points in VA, on and east of a line beginning at the VA-NC State line extending along U.S. Hwy 220 to Roanoke, then along U.S. Hwy 311 to the VA-WV State line. (Gateway eliminated: facilities of Helena Chemical Co. at Gainesville, GA).

MC 124154 (Sub-E11), filed June 5, 1978. Applicant: WINGATE TRUCKING CO., INC., 1004 21st Avenue, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between points in AL north of U.S. Hwy 278, on the one hand, and, on the other, points in NC on and east of a line beginning at the NC-SC State line extending along U.S. Hwy 221 to Rutherfordton, then along U.S. Hwy 64 to Morganton, then along NC Hwy 18 to the NC-VA State line. (Gateway eliminated: facilities of Helena Chemical Co. at Gainesville, GA.)

MC 124154 (Sub-E12), filed June 5, 1978. Applicant: WINGATE TRUCKING CO., INC., 1004 21st Avenue, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between points in AL, on the one hand, and, on the other, points in SC. (Gateway eliminated: facilities of Helena Chemical Co. at Gainesville, Wrightsville and Cordele, GA.)

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30898 Filed 10-31-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-175, Oct. 26, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., November 2, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 30356, *Transcontinental Low-Fare Route Proceeding*, (instructions to staff) for information memo dated September 26, 1978.
3. Dockets 33093 and 32318, Domestic Cargo Rules and Revised Air Freight Forwarder Rules (OGC).
4. Notice of proposed rulemaking amending Part 298 of the Board's Economic Regulations to reduce the reporting requirements of air taxi operators and commuter air carriers (Memo 8250 BAS, BPDA, OGC, OCCR, OEA BCP).
5. Docket 32435, Emergency Air Transportation Requirements. Air Line Pilots Association (ALPA) has petitioned to modify the concurring opinion in Order 78-8-199 (Memo 7907-B, BPDA).
6. Docket 32926, Eastern's Application for Temporary Suspension of Service at Chattanooga, Tenn. (Memo 8254, BPDA).
7. Docket 26291, Petition for Immediate Restoration of Adequate Air Service for American Samoa (Memo 7651-C, BPDA, OCCR, BIA, OGC).
8. Docket 33381, Air Wisconsin's Petition for Show-Cause Order for Nonstop Authority for Toledo-Detroit, Toledo-Chicago, and Lincoln-Grand Island, Nebr. (Memo 8262, BPDA).
9. Dockets 32411 and 33091, *Dallas/Ft. Worth-New Orleans-Florida Service Investigation* and *Florida Service Case* (Memo 8258, OGC).
10. Docket 32709, *Tucson-San Diego Nonstop Route Investigation*, (Memo 7657-C, OGC).
11. Docket 31870, *Baltimore/Washington-Houston Low Fare Route Proceeding* (Memo 7641-E, OGC).
12. Docket 25474, Petitions for Reconsideration *Hawaii Fares Investigation* and Proceedings on Remand in *Continental Air Lines, Inc.* v. *CAB* (Memo 6432-F, OGC).
13. Docket 33400, Third-party complaint of Texas International Airlines against Pan American World Airways, Inc., and National Airlines, Inc. (Memo 8114-G, BCP).
14. Dockets 32833 and 32879, Applications of Eastern and American for exemptions to perform nonstop New York-St. Maarten service pending completion of *Caribbean Area Service Investigation* (Memo 8251, BIA, OGC).
15. Dockets 27679 and 33370, Application of Frontier Airlines for renewal of exemption authority to serve Albuquerque/El Paso-Mazatlan/Guadalajara, and application of Continental Airlines for new exemption authority to serve the same markets (BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2198-78 Filed 10-30-78; 9:34 am]

[6570-06-M]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2160-78 and S-2199-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, October 31, 1978.

CHANGE IN THE MEETING: The time of the meeting is changed to 9:30 a.m. (eastern time), Friday, November 3, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued October 30, 1978.

[S-2201-78 Filed 10-30-78; 1:59 pm]

[6570-06-M]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2160-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, October 31, 1978.

CHANGE IN THE MEETING: The following matter is added to the open portion:

Proposed model program for selecting potential litigation from backloged charges.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Daniel L. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; and J. Clay Smith, Jr., Commissioner.
Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued October 27, 1978.

[S-2199-78 Filed 10-30-78; 9:34 am]

[6750-01-M]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, November 3, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Monthly Policy Review Session: Discussion of housing policies.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-2202-78 Filed 10-30-78; 1:59 pm]

[7555-01-M]

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NATIONAL SCIENCE BOARD.

DATE AND TIME: Nov. 16, 1978, 9 to 9:15 a.m., open session; 1 p.m., open

session (continued). Nov. 17, 1978, 9 a.m., closed session, 1 p.m., open session (continued).

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION:

1. Introduction to November Planning Meeting.
2. Minutes—Open Session—201st Meeting.
3. Chairman's Report.
4. Director's Report:
a. Report on grant and contract activity—September 20-November 15.
b. Organizational and staff changes.
c. Congressional and legislative matters.
d. NSF budget for fiscal year 1979.
e. Regional Instrumentation Facility Program.
f. Young Investigators Postdoctoral Program.
5. Board Committees—Reports on meetings:
a. Executive Committee.
b. Planning and Policy Committee.
c. Programs Committee.
d. Committee on Eleventh NSB Report.
e. Committee on Minorities and Women in Science.
f. Committee on role of NSF in basic research.
g. Committee on Twelfth NSB FReport.
h. Ad Hoc Committee on big and little science.
6. NSF Advisory Groups and Annual Review:
a. Reports on meetings.
b. Board representation at future events.
7. Grants, contracts, and program.
8. Proposed regulations exempting board members from certain financial conflict of interests.
9. Other business.
10. Next meetings:
a. National Science Board—January 18-19, 1979.
b. NSB Committees.
11. Final reports of working group.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

A. Minutes—Closed Session—201st Meeting.
B. Grants, contracts and programs.
C. NSF budgets for fiscal year 1980 and subsequent years.
D. NSB annual reports.
E. Report on NSB nominees.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-2200-78 Filed 10-30-78; 11:20 am]

[7710-12-M]

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POSTAL SERVICE (BOARD OF GOVERNORS).

The Board of Governors of the U.S. Postal Service, pursuant to its bylaws (39 CFR 7.5) 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 Friday, November 10, 1978, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. 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 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. Effective date for minimum size standards. (Section 002.1 of the Domestic Mail Classification Schedule currently states that the minimum size standards therein prescribed will become effective not earlier than November 30, 1978. The Board will consider fixing the effective date for these standards, pursuant to 39 U.S.C. 3625(f).)
4. Quarterly Report on Financial Performance. (Mr. Biglin, Senior Assistant Postmaster General (Finance Group) will present the quarterly summary of financial performance.)
5. Quarterly Report on Service Performance. (Mr. Conway, Deputy Postmaster General, will present the quarterly summary of service performance.)
6. Capital Investment Projects:
(a) Royal Oak, Mich. (Mr. C. K. Kernan, Regional Director for Mail Processing of the Central Region, will present a proposed project for a new Sectional Center Annex in the Royal Oak area of Southeastern Michigan.)
(b) Bristol, Tenn./Va. (Mr. Biglin will present a proposed project for a new general mail facility at Bristol.)
7. Report on Employee and Labor Relations. (Members of the Employee and Labor Relations Group staff will present reports on the progress in this area.)
8. Briefing on use of mechanization by European postal administrations. (Mr. Sommerkamp, Senior Assistant Postmaster General for Research and Technology, will present a briefing on use of mechanized equipment by postal administrations in Europe.)
9. Proposed filing with the Postal Rate Commission for local courier mail. (Mr. Ulsaker, Senior Assistant Postmaster General, Administration Group, will present for Board review a proposed filing with the Postal Rate Commission to change the Domestic Mail Classification Schedule under 39 U.S.C. 3623 to include a new local courier mail service.)

LOUIS A. COX,
Secretary.

[S-2203-78 Filed 10-30-78; 2:55 pm]

[8240-01-M]

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UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 6 p.m., November 1, 1978.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North SW., Washington, D.C. 20595.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (6 p.m.):

1. Review of ConRail proprietary and financial information for monitoring and investment purposes.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-2197-78 Filed 10-30-78; 9:34 am]

Federal Register

WEDNESDAY, NOVEMBER 1, 1978
PART II



DEPARTMENT OF AGRICULTURE

Office of the Secretary

■

IMPROVING GOVERNMENT REGULATIONS

Response to E.O. 12044; Final Report

[3410-01-M]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

IMPROVING REGULATIONS

Response to Executive Order No. 12044 Improving Government Regulations

AGENCY: Department of Agriculture.

ACTION: Final report.

SUMMARY: The Department of Agriculture is publishing the following report on procedures it has established to implement Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978). The procedures include: analysis of all impacts of proposed actions; identifying significant actions; encouraging public participation; reviewing existing regulations; establishing calendars listing proposed actions; and assuring clarity of rule-writing.

DATE: These procedures are in effect for all actions initiated after the date of this report.

ADDRESS: Requests for further information should be addressed to: Mr. Linley E. Juers, Office of Budget, Planning and Evaluation, Office of the Secretary, Room 117-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6667.

SUPPLEMENTARY INFORMATION:

I. *New decision and rulemaking procedures.* In Executive Order No. 12044, the President directed all executive agencies to improve regulations. This final report describes the procedures to be used in the Department of Agriculture to achieve the President's objectives. Additional information on any aspect of these actions can be obtained from the contact person listed above.

The Department of Agriculture published its draft report, proposing actions in response to Executive Order 12044 on May 22, 1978, and invited public comment on proposed actions. After receiving and considering public comments, the report has been revised and the procedures described in this report have been implemented.

Requests for information should be addressed to Mr. Linley E. Juers, at the address listed above.

BOB BERGLAND,
Secretary.

OCTOBER 20, 1978.

DISCUSSION OF COMMENTS

A majority of the comments received on the draft report dealt only with the general objective of the report and the President's Executive Order. All of these comments strongly favored taking actions to improve the understanding of regulations and writing regulations in clearer language. Other comments, while dealing with specific aspects of the report, also unanimously favored these objectives.

Several comments were related to the role and coverage of the Decision Calendar. Some expressed concern that the Decision Calendar would not constitute adequate notice of actions, particularly for people who do not normally read the FEDERAL REGISTER.

It is not intended that the Decision Calendar should constitute or substitute for any other means of providing public notice. The Decision Calendar Published in the FEDERAL REGISTER, and available in the Department, will be in addition to other methods of public notice. Moreover, increased use of other types of notices will be strongly encouraged in connection with improving public participation. Hopefully the Decision Calendar will be used by organizations and publications to alert the public to coming announcements of proposed actions and decisions and thus increase the capacity of groups to publicize notices and actions.

One comment noted that the USDA report goes beyond the Executive Order in requiring agency decision calendars. The Executive Order requires that certain "minimum" procedures be established to improve regulations. The philosophy of the USDA report is to extend these procedures to improve all decisions.

Concern was expressed over the application of the "Significant" classification to certain regulations or actions. The term is used to describe the scope, rather than the importance, of actions and assigns higher oversight to "Significant" actions in view of anticipated larger impact or burden of administration. It is not intended that this classification be used to give publicity to actions. The Department would certainly be receptive to public comment or suggestions on its application of the criteria for determining "significance" either in general or on specific actions.

A number of comments raised questions or admonished the Department with respect to possible implications of the report for increasing administrative complexity, costs or staff requirements and over possible delay in the timeliness of actions.

The Department takes these comments very seriously and recognizes that a dedicated effort will be required to avoid such problems in the implementation of this system. In fact, this report requires very few new procedural steps. In general it makes procedures more standardized and systematic. Constructively used, it will improve efficiency of decisionmaking by establishing a common routine for all decisions; it should reduce the misdirection of actions and increase the assurance of avoiding errors.

A comment on the procedure for reviewing existing regulations suggested that some regulations should be reviewed more frequently. The 5-year cycle is a maximum and more frequent review must be contemplated for many regulations. Some agencies repromulgate their regulations annually. The procedure for selecting regulations for review is designed to be very responsive to public suggestions. The public will be invited to suggest regulations for review; the public will also have the opportunity to comment on the lists of regulations agencies intend to submit for review before the list is finalized.

The largest number of specific comments were directed to the public participation section of the report. All of the commenters favored increased emphasis on and improvements in the quality of public participation. The most pointed comments related to financial aid for costs incurred in presenting views as a means of improving public participation. Comments were evenly divided between favoring and not favoring that method.

Financial aid is one of several means for improving public participation listed in the report for USDA agencies to consider. It is not mandated or prescribed for all agencies or all programs as a necessary means. It is to be considered, along with the other means listed, as a way of achieving improved public participation—broad, meaningful public input for all decisions. The choice of methods for improving participation is best viewed in terms of particular programs. It rests on the question of who the affected public is and how can that public's participation be obtained. Past experience has shown it to be difficult to gain the participation of unorganized private citizens. It is particularly difficult for programs where the affected publics are low-income people. They do not have the advantage of participation costs being tax deductible expenses.

Some comments suggested reducing the expense of participation by the public by holding field hearings closer to peoples' homes. This can be and is done in some programs. But it can be more costly and more limiting to participants than reimbursement.

The Department is aware of the potential problems cited of misusing financial aid for public participation to publicize agency objectives or favor certain groups or organizations.

These same problems can occur with almost any means of participation. Avoiding such problems is partly a matter of having well defined goals for public participation. But the greater assurance comes from having an open

process, where the public has access to the record and to the analysis to which it relates in decisionmaking. Identifying the public participation offices in each agency helps to provide a focus for the public and to facilitate its observing and using the process.

Improving USDA Regulations

Procedures established in response to Executive Order 12044 improving government regulations

The new procedures, described in this report, are intended to make the USDA decisionmaking system perform better. The decisionmaking system must be responsive to the people affected by the actions of the Department. Public understanding of why and how decisions are made will lead to better acceptance and to improved program effectiveness. Public involvement in decisions can make the total process more efficient.

The actions spelled out in this report are: establishing decision calendars, identifying significant actions, encouraging public participation, analysis of impacts, developing new regulations, reviewing existing regulations, and writing clearer regulations.

These actions are specifically designed to bring essential information to bear on decisions and to require that this information be thoroughly analyzed before decisions are made.

The Secretary of Agriculture has specified new USDA procedures in a directive initiating activities and assigning responsibility for each of the proposed actions.

These procedures apply to all informal rulemaking in the Department except for those areas exempted in Executive Order No. 12044 which involve agency management, personnel selection and Federal Government procurement.

Formal rulemaking procedures, which are covered under the Administrative Procedure Act, are also exempted because of the strict rules that already apply to the conduct of hearings and the handling of evidence and information. In USDA, formal rulemaking procedures apply primarily to marketing orders for milk and fruits and vegetables. Nevertheless, agencies using formal rulemaking procedures are required to respond to the spirit of Executive Order No. 12044 in writing decisions and regulations in clear language, providing sufficient public notice and involvement, and preparing impact analyses and statements.

Establishing Decision Calendars

An important aspect of improving decisions is to assure that all interested people know what is being planned and by whom. This will permit the planning of effective input and directing it to where it will best be used. Decision Calendars will serve this purpose. They will provide:

The title, a broad description of and the authority for the proposed action.

The current stage of development and projected dates for each subsequent step including pre-notice, proposal, public comment and final decision.

The names, addresses and phone numbers of persons to contact for additional information.

The name of the Department's official designated to approve each stage of the rulemaking procedure.

Each agency will maintain a decision calendar covering actions assigned to that agency by statute or by delegation. This calendar will include both regulatory and nonregulatory proposed actions. The agency calendar will be maintained under the direction of the agency head.

The Department will maintain a coordinating calendar covering all agency actions that are determined to be significant. After approval by the Secretary, this Department Calendar will be published at least twice annually in the Federal Register. It will be subject to continual update in the Office of the Secretary and will be available to the public. Periodic amendments will be published in the Federal Register.

Identifying Significant Regulations

Among the actions on the agency decision calendars there will be some which may affect large numbers of people, involve large economic or resource adjustments, or are controversial due to conflict over questions of fact or impact. All proposed actions determined to require a decision or concurrence by an Assistant Secretary or a higher level official will be definition be "Significant." Proposed "Significant" actions will be listed on the Departmentwide Decision Calandar maintained in the Office of the Secretary. Criteria for designating a regulation "Significant" are:

Will cause a substantial increase or reduction in program coverage that will affect a significant number of people.

Will cause substantial change in total program outlays or in the level of direct, indirect or induced benefits or costs.

Will substantially alter enforcement or compliance requirements.

Will significantly expand or contract public services which might affect any stage of production, processing, distribution, or consumption.

Is likely to raise significant controversy due to conflict over questions of fact or impact.

All proposed actions will be reviewed for "Significance" by the appropriate program Assistant Secretary before being entered on the agency decision calendar. The program Assistant Secretaries and other General officers of the Department will be responsible for final determination of "Significance" and for identifying those actions requiring the approval of the Deputy Secretary, the Secretary, or the President. The Secretary's Program and Budget Review Board will establish criteria for those actions to be reserved for approval by the Deputy Secretary, the Secretary, and the President.

Decision calendars are intended to serve internal management needs and as a source of public information. To serve these purposes, a standardized format will be used for agency and the USDA calendars. The format will include the information specified in Executive Order 12044 and some added information on the procedural status.

National organizations representing general purpose State and local governments have been asked by the President to notify the senior intergovernmental official if they believe that a regulaton included on a regulation agenda would have major intergovernmental significance. The senior intergovernmental official in USDA is the Deputy Director for Intergovernmental Affairs, Office of Governmental and Public Affairs, who will coordinate intergovernmental activities with the Departments' public participation officer.

Encouraging Public Participation

Public participation is an important device for obtaining ideas and information to better serve the public. Therefore, the Secretary of Agriculture has directed all agencies to actively solicit public comment and other inputs. Agencies are encouraged to use several means to obtain broad, meaningful public input. These means may include: financial aid for costs incurred in presenting views, public meetings, soliciting added comment on proposals, organized followup on complaints and training to improve public ability to participate in government procedures

Each agency is required to have a public participation office reporting directly to the Administrator. A coordinating public participation staff is being created at the Department level. At the initiation of each rulemaking procedure, agencies will be required to have a public participation plan for that action. The Department level staff will review the methods and effectiveness of agency procedures before they are implemented. It will also monitor agency followup on public suggestions and complaints that have been submitted.

Public participation plans should be tailored to the agencies programs and should stimulate the broadest possible range of public input at each signifi-

cant stage—preproposal analysis, comment on proposals, comment and complaints in post rulemaking evaluation and on the need for review of regulations. Each agency public participation office will coordinate with the Department's public participation officer.

The departmental public participation staff, reporting to the Director of Economics, Policy Analysis and Budget, will advise the Secretary on the performance of public participation in USDA. Their functions will include:

Concurrence in agency public participation plans.
Maintenance of the USDA Decision Calendar (and review of the supporting agency calendars).
Regulatory complaint monitoring and followup.
Assurance that proper procedures are followed in developing "Significant" regulations.

Writing Understandable Regulations

The President's mandate that regulations be "written in plain English" and be "understandable to those who must comply" is the subject of a separate part of the Secretary's directive to USDA agencies.

Agency Administrators are assigned primary responsibility for preparing understandable regulations. They are directed to involve their public information officers in writing regulations to make certain the language is clear and understandable. The USDA Office of Governmental and Public Affairs is directed to guide agencies in developing a better writing process and to review their progress for the Secretary.

Impact Analysis

It is USDA philosophy that all decisions, whether major or minor, can only be made with confidence after an appraisal of the impact of each meaningful alternative course of action for reaching the stated objective. The document that contains this information is the draft Impact Analysis.

The extent of the documentation required for different decisions may vary considerably. In some cases, the course of action and the impacts may be obvious. Thus the documentation may be no more than a simple declaratory statement.

In other cases, several possible courses of action may exist for reaching the primary goal with differences in secondary impacts on environment, inflation, economy, and on compliance burden. Where such alternatives exist, a careful analysis of differences in efficiency and effectiveness with which each alternative action may achieve the primary objective will be required along with spelling out the secondary impacts that mighty detract from the primary objectives.

A draft Impact Analysis provides the analytic base for a proposed action. It, together with public participation and the legal authority for the proposed action, provides the basis for a final decision. Upon arriving at a final decision, a Final Impact Analysis Statement will be prepared. The intent of the single form "Impact Analysis" is to avoid the duplication of effort when separate analyses and statements are prepared to cover the various impacts of a decision.

When an Environmental Impact assessment adequately covers all of the impacts of a proposed action, it will serve the purpose of the draft Impact Analysis. When the final action is taken, the key information from the Environmental Impact Statement will become the Final Impact Statement.

A Draft Impact Analysis and a Final Impact Statement are required for each proposed action. A Draft Impact Analysis, showing the analysis of alternatives, provides support for a proposed action. At the time comments are reviewed and the decision is finalized, a Final Impact Statement will be prepared. It will be a summary of the supporting documentation contained in the "Draft Impact Analysis" and any additional information obtained during the comment period.

With respect to all "Significant" proposed actions, the responsibility for determining that the Draft Impact Analysis and Final Impact Statements provide an adequate analytical base for a decision is assigned to the Director of Economics, Policy Analysis and Budget. The Director must approve all Draft Impact Analysis and Final Impact Statements for "Significant" proposed actions. Agency heads will approve impact analysis on all other actions. But the Director will monitor and provide departmental oversight on the quality of all impact analysis.

Rather than institute a separate regulation analysis procedure for those decisions or actions leading to new rules or regulations, USDA will simply add appropriate specific requirements to the existing Impact Analysis process. Analysis of the compliance burden and notice of the availability of impact statements are required.

Developing New Regulations

When consideration is given to carrying out a program or implementing authority by rulemaking, before any action is undertaken the agency Administrator will review:

The need to take action.
The alternative actions already authorized or available to achieve the desired results.
The need and plans for public comment.
The tentative schedule for completing all stages of developing the regulation.

If this review indicates that a regulation is needed, the Administrator will initiate an entry for the agency Decision Calendar for review by the program Assistant Secretary.

Simultaneously, the Administrator will initiate the development of the draft Impact Analysis, publish a "prenotice" indicating plans and opportunities for public involvement in developing the regulations. (This procedure will also be followed for nonregulation program actions.)

If the proposed action is "Significant," it will be entered on the Department Decision Calendar, placing the oversight responsibility in the Office of the Secretary. When a regulation has not been classified as "Significant," a statement to that effect shall be included with publication of the proposed regulation.

In developing the proposed regulation, the Administrator will make certain:

That a Draft Impact Analysis has been prepared and approved.
That the public participation plan is being followed.
That clear language is used and compliance burdens are reduced to the extent possible.

Prior to publication of the proposed regulation, the Administrator shall obtain the appropriate level of review required for the proposed decision.

In publishing the proposal, a statement shall be included indicating:

The availability of the Draft Impact Analysis.
The input desired from the public.
That at least 60 days will be allowed for public comment on the proposal. If less time is to be allowed, or any other procedure waived due to statutory or judicial deadlines, a specific justification for the abbreviated time or procedure will be spelled out and the statement include the name of the official making that determination.

When an emergency situation requires immediate program action, an agency may promulgate and implement needed regulations or regulation changes without delay. But in publishing the emergency regulations, the agency must state the basis on which the "emergency" determination was made and must immediately schedule the regulations for review. This review must adhere to the procedures described above.

In preparing the final regulation, the Administrator must be prepared to assure (and provide documentation to the Secretary's Office on "Significant" regulations) that all prodecural steps have been followed. These assurances will be submitted to the appropriate Assistant Secretary or Department official before the regulation may be approved and signed.

REVIEW OF EXISTING REGULATIONS

In Executive Order No. 12044, agencies are directed to review their existing regulations applying the procedures developed for new regulations. No USDA regulation should exist for more than 5 years without being reviewed for need, currency, and effectiveness. As regulations are revised in the course of review, a time for the next periodic review or a termination date will be added.

Some categories of regulations are regularly renewed every year or so. These will not require a review schedule, but will be subjected to the new rulemaking procedures.

The selection of regulations proposed for review will be the responsibility of the heads of USDA agencies or independent offices. Their selections will be based on the following criteria:

No review has been conducted within 5 years of issuance.

There is a need to improve function.

Complaints received on operations.

Suggestions received through public participation programs.

The public participation staff will evaluate agencies' proposals for review as a part of the process of approving listings for the department decision calendar.

The process of reviewing USDA regulations will be as follows:

1. Selecting regulations for review. On each 6-month department decision calendar, a section will be reserved for "Review of USDA Regulations." Under this heading, each USDA agency will have a separate listing showing (a) "Regulations Proposed for Review" and (b) "Regulations Scheduled for Review," along with appropriate description and contact points. Notice will be published:

Inviting public participation in the review process; and

Seeking comments on the list of regulations proposed for review in the following 6-month period. The calendar listing and notices will be subject to periodic amendment to advise the public of progress on new stages in the review process.

After considering public comments on "Regulations Proposed for Review," the list will be revised and put in the next calendar under "Regulations Scheduled for Review."

2. Applying the process for reviewing existing regulations. There will be three parts to the review process: The agency will: (a) invite public comment; (b) conduct an impact analysis following the same procedure established for developing a new regulation; and (c) review the language for clarity and understandability.

On the basis of this analysis, the agency head may:

(a) Recommend proposed changes in the regulation to be promulgated as in the case of a new regulation, or

(b) Determine that no change is needed and publish notice finalizing the review, stating the basis for this conclusion and recommending the time for the next review of that regulation.

USDA REGULATIONS SCHEDULED FOR REVIEW

The following USDA regulations are scheduled for review. They are listed by USDA agency along with the name and phone number of the agency contact person. Comments or inquiries should be sent to: (Contact person), USDA (Agency name), Washington, D.C. 20250.

REGULATIONS DESIGNATED SIGNIFICANT

Authority or CFR citation	Subject	Description	Contact
		Soil Conservation Service	
7 CFR 624	Emergency watershed protection program (sec. 216).	SCS will expend over $100 million in fiscal year 1978 to restore watersheds impaired by natural disaster to predisaster conditions. These regulations specify eligibility and State and local government responsibilities.	Dave Unger, 202-447-7107.
7 CFR 622	Watershed program	SCS currently expends about $130 million annually to construct local watershed projects. The regulations define eligible participants and prescribe conditions of receiving assistance.	Do.
		Forest Service	
36 CFR 212	Road construction	The FS prescribes for each timber sale proposed on National Forest land the transportation needs for the removal of timber. Road construction standards are dictated by the specific sale operation and are made a part of the timber sale contract.	Dave Unger, 202-447-7107.
		Farmers Home Administration	
7 CFR 1804, Subpart A—Planning and Performing Development Work.	Use of HUD's minimum property standards for FmHA financed housing.	HUD's minimum property standards (MPS) for FmHA financed housing is considered unrealistic and costly for many rural areas. These standards act as barriers for providing housing and often cause local contractors to refuse to deal with individuals or groups financing housing under Federal housing programs. These requirements are viewed as preventing the financing of housing for families whose present housing is inadequate but who cannot afford or do not want housing that meets "urban" minimum standards. HUD's standards would be reviewed to determine to what extent they can be modified to reflect property standards that are appropriate to rural areas and which can result in lower housing costs. Any modification would be discussed with HUD to achieve maximum uniformity in standards for rural areas.	Henrietta McArthur, 202-447-5277.
		Food Safety and Quality Service	
9 CFR 301	Regulations governing the procedures used for inspection of meat and poultry by FSQS.	FSQS is currently reviewing all of its regulations governing the methods employed to inspect livestock, poultry, meat and poultry food products with the aim of identifying more effective and, where possible, less costly methods of inspection. This review, once completed will result in the adoption of new regulations governing inspection methods and certifying that other regulations have been reviewed and found acceptable.	Paul Ragan, 202-447-5593.

Food Safety and Quality Service—Continued

Authority or CFR citation	Subject	Description	Contact
9 CFR 381.76	Regulations establishing the procedures for poultry post-mortem inspection.	Current FSQS regulations for the post-mortem inspection of poultry require that each bird be examined through a combination of hand motions—coupled with observation to detect—diseased birds. FSQS is reviewing these regulations to determine if diseased birds can be detected just as effectively, and more efficiently, through observation alone. If "hands-off" inspection of each bird can be accomplished just as effectively, and more efficiently, the appropriate regulations will be proposed.	Paul Ragan, 202-447-5593.
	Agencies Under the Assistant Secretary for Marketing Services		
		Review of the burdens and economic impacts of regulations related to trade in, transportation of, or quarantine of agriculture products or commodities. The initial reviews would relate to the following:.	Ron Hendrickson 202-447-7851.
7 CFR ch. 1, pts. 201 and 202	Regulations and procedures established to carry out responsibilities under the Federal Seed Act (Agricultural Marketing Service).	.....	
9 CFR pts. 50-56, subch. B	Indemnity programs for animal disease control (Animal and Plant Health Inspection Service).	.....	
9 CFR pt. 75, subch. C	The Federal role in the control of the horse disease equine infectious anemia (Animal and Plant Health Inspection Service).	.....	
7 CFR 319.46	The existing quarantine on the importation of avocados from Mexico for the purpose of preventing the introduction of new plant pest and diseases into the United States (Animal and Plant Health Inspection Service).	.....	

REGULATIONS NOT DESIGNATED SIGNIFICANT

Authority or CFR citation	Subject	Description	Contact
	Agricultural Marketing Service		
7 CFR ch. IA, pt. 33	Regulations issued under the Export Apple and Pear Act.	The regulations prescribe minimum quality and other requirements for apples and pears shipped to export markets; mandatory inspection and certification for compliance with such requirements; informational and educational activities to inform and promote understanding of the regulations by shippers, exporters, freight forwarders, and export carriers. Periodic examinations of carrier files are made for certificates covering export shipments for apples and pears. Possible violations are investigated to assure compliance with the acts and regulations.	Bob Brown, 202-447-3817.
7 CFR ch. IC, pt. 75	Inspection and certification of quality of agricultural and vegetable seeds under the Agricultural Marketing Act of 1946.	The regulations for the inspection and certification of quality of seeds was formerly contained in the pt. 68 regulations for the inspection of grain and related commodities. On Apr. 15, 1977, there was published a FEDERAL REGISTER notice of transfer of the pt. 68 regulations applicable to inspection of seed to pt. 75 and continuing in effect those regulations administered by the Agricultural Marketing Service. The regulations contain requirements for applying for inspection service and specify the fees and charges for such services.	Do.
9 CFR ch. II, pts. 201.14, 201.15, 201.16.	Licensing provisions for live poultry market agencies and live poultry dealers operating in designated live poultry markets located in large metropolitan areas.	This part of the regulation covers licensing procedures applicable to markets which are no longer in existence.	Do.
7 CFR ch. IE, pt. 102, secs. 102-80 through 102.95.	Grain appeals (grain warehouses)	This regulation provides for an appeal procedure in case a question arises as to the true grade of grain stored or to be stored in a licensed warehouse, for which official grain standards of the United States are in effect and for which a grain inspection certificate has been issued.	Do.
	Animal and Plant Health Inspection Service		
7 CFR 301.81	Imported fire ant	Regulation imposes a quarantine on specific articles originating in the imported fire ant quarantine area. Also specifies conditions under which these articles may be moved interstate (i.e., after an acceptable treatment).	Sam Ladd, 202-447-3321.
9 CFR pt. 92	Inspection of certain animal and poultry and certain animal and poultry products; inspection and other requirements for certain means of conveyance and shipping containers thereon.	Because of various animal and poultry diseases, this regulation prohibits the entry of animals, products, or birds into the United States from foreign countries except under the conditions that are stated in the regulation.	Do.

Science and Education Administration

Authority or CFR citation	Subject	Description	Contact
7 CFR 500	Conduct on National Arboretum property	Regulations apply to the buildings and grounds of the National Arboretum, Washington, D.C., and to all persons entering in or on such property.	Charles Totten, General Service Division, room 511, Federal Bldg., Hyattsville, Md. 20782, 301-436-8217.
7 CFR 501	Conduct on U.S. Meat Animal Research Center, Clay Center, Nebr.	Regulations apply to all property of or under the charge or control of the U.S. Meat Animal Research Center, Clay Center, Nebr., and to all persons entering in or on such property.	
7 CFR 502	Conduct on Agricultural Research Center Property, Beltsville, Md.	Regulations apply to the buildings and grounds of the Agricultural Research Center, Beltsville, Md., and to any persons entering in or on such property.	Do.
7 CFR 503	Conduct on Plum Island Animal Disease Center.	Regulations cover the buildings, grounds and vessels of the Plum Island Animal Disease Center, Orient Point, N.Y., and apply to all persons entering in or on such properties both on the mainland, Orient Point, N.Y., and on Plum Island.	Do.
7 CFR 510	Public information	The regulations in this part govern the availability of records of the Agricultural Research Service (now SEA-FR) to the public.	Robert M. Nelson, 202-447-6691.

Forest Service

36 CFR, sec. 200.1, subpt. A	Central organization	This section describes the central organization of the Forest Service, and defines the major components—the Chief and the Deputy Chiefs for Program and Legislation, National Forest System, Research, State and Private Forestry, and Administration.	Mary Davis, 202-447-4233.
36 CFR, sec. 200.2	Field organization	This section describes the components of the field organization: regions, composed of national forests and ranger districts; experiment stations for forest and range research, including laboratories and field facilities; areas for State and private forestry cooperation. Also includes a list of field addresses.	Do.
36 CFR, sec. 200.3, subpt. B	Forest Service functions	This section describes the work of the Forest Service, its legislative authority, and its major programs.	Do.
36 CFR, sec. 200.4	General procedures	Included in this section is a description of Forest Service regulations and directives and description of their use.	Do.
36 CFR, sec. 200.5	Information available	This describes information available to the public	Do.
36 CFR, sec. 200.6	Indexes	This gives information about availability of reference materials	Do.
36 CFR, sec. 200.7	Office where information is available	This informs the public of the locations of offices where information is available and states that personnel will assist applicants in locating needed materials.	Do.
36 CFR, sec. 200.8	Where information may be copied	This states where information may be copied, and where it may not	Do.
36 CFR, sec. 200.9	Rules governing inspection and copying	This gives hours when offices are open for inspection and copying of materials, and states fee guidelines.	Do.
36 CFR, sec. 200.10	Request for records	This section states which officials can receive and process requests for records, and gives parameters for replies to such requests.	Do.
36 CFR, sec. 200.11	Appeals	This sets forth guidelines for the public to appeal decisions for requests for information.	Do.

Soil Conservation Service

7 CFR, ch. VI, pt. 611.11C	Resource data	Copies of soil survey field sheets and related data may be reviewed at the local SCS field office, and may be purchased with prior approval from the SCS State office.	Klaus W. Flach, 202-447-5195.
7 CFR, ch. VI, pt. 611.20-21	Cartographic operations	Need for review of cartographic operations because of organizational and distributional changes.	

Rural Electrification Administration

185-1:465-1	Audit of REA borrowers' accounting records.	REA policy and requirements regarding audits of the accounts and records of REA borrowers including the selection of independent certified public accountants to perform such audits.	Joseph Vellone, 202-447-3863.
5-1:305-1	Joint use of REA borrowers' facilities by electric and telephone systems.	REA policy and procedure for the joint use of REA borrowers' facilities by other electric and telephone systems.	Richard F. Richter, 202-447-6237.
20-14	Supplemental financing for loans considered under sec. 4 of the Rural Electrification Act.	REA policy on supplemental financing for loans considered under sec. 4 of the Rural Electrification Act.	Do.
20-21:320-21	National Environmental Policy Act	REA policy and procedure on the implementation of the National Environmental Policy Act as it relates to the REA program. (Authority: National environmental Act of 1969).	Do.
40-6	Construction methods and purchase of materials and equipment.	The requirements of REA on construction of distribution, transmission, generation, and headquarters facilities, and the purchase of materials and equipment by REA electric borrowers.	Do.
41-1	Engineering services for electric borrowers.	REA policy and procedure for electric borrowers' selection of engineers and arrangements for engineering services.	Do.
60-8	System planning guide for electric distribution systems.	REA guidelines to borrowers for long-range electric distribution system planning.	Do.
62-1	Transmission line manual	REA specifications and other requirements for the design of transmission lines.	Do.
105-5	Financial forecast—electric distribution systems.	Guidelines for the preparation of long-range financial forecasts by electric distribution borrowers.	Do.

Rural Electrification Administration—Continued

Authority or CFR citation	Subject	Description	Contact
105-7	Long-range system and financal planning—power supply borrowers.	Policy and recommendations of REA for its power supply borrowers with respect to the preparation of long-range system and financial plans.	Do.
107-1:407-1	Data processing systems	REA policy concerning the selection and use of data processing systems by REA borrowers.	Do.
108-2	Operating reports—power-type borrowers and distribution borrowers with generating facilities.	The requirements of REA on the preparation and submission of operating reports by power-type borrowers and distribution borrowers with generating facilities.	Do.
112-3	Area coverage service	The policy of REA concerning the extension of electric service to rural users by borrowers on an area coverage basis.	Do.
344-3:43-9	"Buy American" requirement	REA requirements with respect to the "Buy American" provision of the Rural Electrification Act.	C. R. Ballard, 202-447-4305.
345-18	REA specification for plastic-insulated, plastic-jacketed station wire.	REA requirements on plastic-insulated, plastic-jacketed station wire installed on REA-financed telephone systems.	Do.
345-19	REA specification for fig. 8 1-pair distribution wire.	REA requirements on fig. 8 1-pair distribution wire installed on REA-financed telephone systems.	Do.
345-20	REA specification for fig. 8 multipair distribution wire.	REA requirements on fig. 8 multipair distribution wire installed on REA-financed telephone systems.	Do.
345-21	REA specification for polyethylene raw material.	REA requirements on polyethylene raw material installed on REA-financed telephone systems.	Do.
345-22	REA specification for voice frequency loading coils.	REA requirements on voice frequency loading coils installed on REA-financed telephone systems.	Do.
345-36	REA specification for parallel conductor drop wire.	REA requirements on parallel conductor drop wire installed on REA-financed telephone systems.	Do.
345-39	REA specification for telephone station protectors.	REA requirements on telephone station protectors installed on REA-financed telephone systems.	Do.
345-50	REA specification for trunk carrier multiplex equipment.	REA requirements on trunk carrier multiplex equipment installed on REA-financed telephone systems.	Do.
345-52	REA standard for station installation	Provides details on telephone installations, including mobil home installations, and an emphasis on buried plant.	Do.
345-64	REA specification for ringers	REA requirements and guidelines on ringers installed on REA-financed telephone systems.	Do.
345-66	REA specification for subscriber carrier equipment.	REA requirements on subscriber carrier systems installed on REA-financed telephone systems.	Do.
345-68	REA specification for 2-electrode gas tube protectors.	REA requirements on 2-electrode gas tube protectors installed on REA-financed telephone systems to protect communications circuits and equipment from foreign voltages.	Do.
345-70	REA specification for filled buried wire	REA requirements on filled buried wire installed on REA-financed telephone systems.	Do.
345-71	REA specification for 3-electrode gas tube protectors.	REA requirements on the 3-electrode gas tube protectors installed on REA-financed telephone systems to protect communications circuits and equipment from foreign voltages.	Do.
350-3	Weekly progress report of telephone construction and engineering services.	Report by the borrower's engineer to the telephone borrower and REA on the progress of engineering services and construction activities.	Do.
385-2	Purchasing and installing special electronic equipment.	Procedures required by REA of telephone borrowers in purchasing and installing special electronic equipment with REA loan funds.	Do.
415-1	Sale of property by telephone borrowers	Requirements of REA with respect to the sale, lease, or transfer of property by telephone borrowers.	Do.

Food Safety and Quality Service

9 CFR 318.11, 9 CFR 381.149	Canning regulations	FSQS regulations governing the control of canned meat and poultry products to insure their safety are currently under review. There is evidence that the current regulations may not be providing sufficient safeguards to insure that meat and poultry canners employ adequate quality controls. The new regulations will provide FSQS inspectors with more objective criteria for evaluating the adequacy of canners' controls.	Paul Regan, 202-447-5593.
9 CFR 335, 9 CFR 381, subpt. W.	Regulations establishing criteria for withdrawal of FSQS inspection and/or grading services.	Enforcement procedures followed by FSQS to encourage compliance with substantive regulations through refusal to provide or withdrawal of FSQS services will be reviewed. Regulations governing such actions will be reviewed with necessary changes incorporated in a subsequent proposed regulation.	Do.
9 CFR 318.7	Regulations governing use of nitrites in red meat products.	FSQS has regulations which govern the use of nitrites and nitrates as additives in red meat products. These regulations are important from a public health standpoint since nitrites and nitrates can, under certain circumstances, combine with compounds in the meat to form carcinogenic nitrosamines. FSQS recently published a final regulation concerning bacon which prohibits the use of nitrates in bacon, lowers the maximum amount of nitrites permitted in bacon, and requires 120 parts per million (ppm) ingoing sodium nitrite (or 148 ppm potassium nitrite) and specified amounts of sodium ascorbate or sodium erythorbate in bacon. This action was taken in order to prevent the presence of nitrosamines in bacon while still preventing toxin formation by Clostridium botulinum. In addition, FSQS recently proposed regulations with regard to further reducing ingoing nitrite levels for bacon, and with regard to the labeling of certain meat products which are cured with no nitrite or less than 120 ppm ingoing nitrite. Comments by the public on these two proposed regulations are invited.	Do.
CFR pt. 250	Donation of food for use in the United States.	This regulation outlines the requirements for Food and Nutrition Service and State distributing agents to follow in acquiring and distributing domestically donated foods for use in Federal food programs administered by USDA. Eligibility criteria, funding procedures, monitoring requirements and planning requirements are stipulated.	Gene P. Dickey, 202-447-5548.

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