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federal register

Monday
June 25, 1979

Highlights

36927 **Alaska Natural Gas Transportation System** Executive order

37188 **Allocation of Middle Distillates** DOE/ERA amends rules relating to agricultural production, trucking and the production of oil and natural gas; effective 6–25–79 (Part X of this issue)

37134 **Gifted and Talented Children's Education** HEW/OE proposes regulations governing Federal financial assistance; comments by 9–24–79 (Part IV of this issue)

37092 **Commercial Security Field Test** Justice/LEAA announces a competitive research grant program for evaluative purposes; comments by 7–22–79

37184 **Youth Employment** HEW/OE proposes regulations to govern the use of funds; comments by 9–24–79 (Part IX of this issue)

37164 **Indochina Refugee Children Assistance** HEW/OE proposes regulations governing grants to State educational agencies; comments by 9–24–79 (Part VI of this issue)

37142 **Biomedical Sciences** HEW/OE proposes regulations governing grant awards to institutions of higher education; comments by 9–24–79 (Part VII of this issue)

CONTINUED INSIDE

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Highlights

37170 **National Diffusion Network Program** HEW/OE proposes regulations to implement a change in statutory authorization; comments by 9–24–79 (Part VIII of this issue)

36937 **Gasoline Purchase** DOE/ERA adopts minimum purchase requirements; effective 6–25–79; comments by 8–31–79

36944 **Certification of Child Care Arrangements** DOD/AF revises rules to include a new preservice drug abuse policy and updated enlistment procedures; effective 11–10–78

36988 **Protecting Foreign Diplomatic Missions** Treasury/SS amends and clarifies procedures providing assistance to state and local governments; comments by 7–25–79

37142 **Pre-lease Sale Activities** Commerce/NOAA amends regulations to provide conformance with the Justice Department and outer Continental Shelf; effective 6–25–79 (Part V of this issue)

37074 **Proprietary Fuel Additive** EPA grants waiver for oxygenated hydrocarbon fuel

37104 **Fuel Economy Standards** DOT/NHTSA announces availability of agency reports concerning pasenger automobiles

37105 **Hydraulic Brake Systems** DOT/NHTSA denies petitions to commence defect proceeding

36975 **Fuel Economy** DOT/NHTSA reduces standards for two-wheel drive light trucks manufactured in 1981

37094 **Critical Energy Facility Program** OMB requests comments on criteria and selection of non-nuclear energy facilities; comments by 7–20–79

36986 **Milk Price Support** USDA/CCC considers establishing the price support level; comments by 8–20–79

37107 **Sunshine Act Meetings**

Separate Parts of This Issue

37124 **Part II, Interior/FWS**
37130 **Part III, Interior/FWS**
37134 **Part IV, HEW/OE**
37142 **Part V, Commerce/NOAA**
37164 **Part VI, HEW/OE**
37170 **Part VII, HEW/OE**
37178 **Part VIII, HEW/OE**
37184 **Part IX, HEW/OE**
37188 **Part X, DOE/ERA**

Contents

Federal Register
Vol. 44, No. 123
Monday, June 25, 1979

The President
EXECUTIVE ORDERS
36927 Alaska Natural Gas Transportation System (EO 12142)

Executive Agencies

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
36985 Middle Atlantic; hearing

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Federal Crop Insurance Corporation; Soil Conservation Service.

Air Force Department
RULES
36944 Enlistment; preservice drug abuse policy; certification of child care arrangements; etc.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings:
37090 Psychiatric Nursing Education Review Committee

Army Department
NOTICES
Environmental statements; availability, etc.:
37027 Fort Sill, Okla.
Meetings:
37028 Armed Forces Epidemiological Board

Civil Aeronautics Board
NOTICES
Hearings, etc.:
37023 Boston/Philadelphia-Orlando nonstop authority
37023 Minneapolis/St. Paul show-cause proceeding

Coast Guard
NOTICES
37098 Environmental impact statements; procedures for consideration

Commerce Department
See also Maritime Administration; National Oceanic and Atmospheric Administration; Travel Service.
PROPOSED RULES
36988 Regional Action Planning Commissions; administrative operations; correction
NOTICES
Organization and functions:
37026 Deputy Assistant Secretary, Administrative Support Office
37025 Domestic Business Development Bureau

Commodity Credit Corporation
PROPOSED RULES
Loan and purchase programs:
36986 Milk

Commodity Futures Trading Commission
NOTICES
37027 Chicago Mercantile Exchange rules; 1504–G and 1505–C; inquiry

Community Services Administration
RULES
36974 Energy conservation program; emergency crisis intervention program; extension of eligibility; correction

Customs Service
RULES
36944 Liquidation of duties; countervailing duties: Fasteners from Japan; correction

Defense Department
See Air Force Department; Army Department; Defense Nuclear Agency

Defense Nuclear Agency
NOTICES
Meetings:
37027 Scientific Advisory Group on Effects

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
36937 Motor gasoline end-user minimum purchase rule; emergency adoption; hearing
Petroleum allocation regulations, mandatory:
37188 Middle distillates, special allocation
NOTICES
Canadian allocation program:
37028 Crude oil, September; 1979 allocation period
Crude oil, domestic; allocation program; 1979; entitlement notices:
37032 April

Education Office
PROPOSED RULES
37170 Biomedical sciences program
37134 Gifted and Talented Children's Education Program
37164 Indochina refugee children assistance program
37178 National diffusion network program
37184 Youth employment program

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
PROPOSED RULES
36987 Residential conservation service program; extension of time; decision to develop an environmental impact statement

Environmental Protection Agency
PROPOSED RULES
Waste management, solid:
36997 Hazardous waste guidelines and standards; preliminary notification of activities; extension of time

NOTICES
Air programs; fuel and fuel additivies:
37074 Sun Petroleum Products Co.; waiver application
Air quality implementation plans; approval and promulgation:
37087 New York; nonattainment areas; plan availability and inquiry

Federal Aviation Administration
RULES
Airworthiness directives:
36941 Beech
36940 Boeing
36941 Lockheed
36943 Piper
36942 Swearingen
36943 Transition areas

Federal Communications Commission
RULES
Radio services, special:
36974 Maritime services; ship stations; separation of handheld pilot radio equipment
PROPOSED RULES
Communications equipment:
37008 Radio frequency devices; biological effects of radiation levels
Radio services, special:
37015 Maritime services; lifeboats; specifications for portable radio equipment
Radio stations; table of assignments:
37014 Nevada
Television broadcasting:
37014 Cable television; compliance certificate applications and Federal-State/local regulatory relationships; extension of time
NOTICES
Hearings, etc.:
37087 Accurate Cartage Co.
Meetings:
37088 Radio Propagation Analysis in Domestic Public Land

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
36929 Raisins

Federal Deposit Insurance Corporation
NOTICES
37107 Meetings; Sunshine Act (2 documents)

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
36997 Indiana
36998 Kentucky
36999 Missouri
36999 Tennessee
37000 Texas
37000 Vermont
37001, 37002 Wisconsin (3 documents)

Federal Energy Regulatory Commission
NOTICES
Land withdrawals:
37053 Alaska
37108 Meetings; Sunshine Act
Natural Gas Policy Act of 1978:
37038, 37049 Jurisdictional agency determinations (2 documents)
Hearings, etc.:
37039 Black Hills Power & Light Co.
37039 Columbia Gas Transmission Corp. et al.
37039 Columbia Gulf Transmission Co. et al.
37039 Connecticut Light & Power Co.
37040 Detroit Edison Co.
37040, 37041 Duke Power Co. (2 documents)
37041 Exxon Corp. et al.
37042 Florida Gas Exploration Co.
37043 Florida Power & Light Co.
37043 Hartford Electric Light Co.
37044 Jersey Central Power & Light Co.
37044 Mountain Fuel Supply Co.
37045 Municipal Electric Authority of Georgia
37045 Natural Gas Pipeline Co. of America
37046 Natural Gas Pipeline Co. of America et al.
37047 Northwestern Public Service Co.
37047 Pennsylvania Power & Light Co.
37048 Public Service Co. of Indiana, Inc.
37043 Schurman, George R.
37048 Sea Robin Pipeline Co.
37048 Shell Oil Co.
37050 Tennessee Gas Pipeline Co.
37051 Trunkline Gas Co.
37052 Union Electric Co.
37052 Union Oil Co. of California
37052 Virginia Electric & Power Co.

Federal Highway Administration
NOTICES
37100 Highway beautification; outdoor advertising

Federal Home Loan Bank Board
NOTICES
37109 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
37088, 37089 Agreements filed, etc. (2 documents)
Complaints filed:
37088 Allied Chemical International Corp. v. Farrell Lines, Inc.

Federal Mine Safety and Health Review Commission
NOTICES
37109 Meetings; Sunshine Act

Fish and Wildlife Service
RULES
Endangered and threatened species:
37130 Alligator, American
37124 Ryukyu rabbit, etc.

General Accounting Office
NOTICES
37089 Regulatory reports review; proposals, approvals, etc. (FMC)

General Services Administration
NOTICES
Meetings:
37090 Architectural and Engineering Services Regional Public Advisory Panel

Geological Survey
NOTICES
Coal leasing areas:
37091 Utah
37091 Wyoming

Health, Education, and Welfare Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Education Office.
RULES
36960 Procurement; contract clauses and forms
NOTICES
Meetings:
37090 Select Panel for the Promotion of Child Health

Hearings and Appeals Office, Energy Department
RULES
Oil; administrative procedures and sanctions:
36934 Applications for stay and temporary exception; affirmative relief; interim rule and request for comments
NOTICES
Applications for exception:
37053–37068 Cases filed (3 documents)

Interior Department
See Fish and Wildlife Service; Geological Survey; National Park Service; Reclamation Bureau.

Justice Department
See Law Enforcement Assistance Administration; Prisons Bureau.

Law Enforcement Assistance Administration
NOTICES
Grants solicitation, competitive research:
37092 Commercial Security Field Test Program

Libraries and Information Science, National Commission
NOTICES
37109 Meetings; Sunshine Act

Management and Budget Office
NOTICES
37094 Agency forms under review
37094 Critical Energy Facility Program, implementations; inquiry

Maritime Administration
PROPOSED RULES
Practice and procedures:
37003 Operating-differential subsidy applications; hearing procedures
NOTICE
Foreign construction cost computations:
37024 Lash vessels, MA design C8–S–81h

Materials Transportation Bureau
PROPOSED RULES
Hazardous materials:
37017 Exemptions, individuals; conversion to regulations of general applicability
NOTICES
Hazardous materials:
37101, 37103 Applications; exemptions, renewals (2 documents)

National Highway Traffic Safety Administration
RULES
Fuel economy standards, average:
36975 Trucks, light; 1981 model year
NOTICES
37104 Fuel economy standards; passenger automobile; report availability
Motor vehicle defect proceedings; petitions, etc.:
37105 Plantan, Frank J.; Chevrolet Chevette severe reduced braking ability; denial

National Oceanic and Atmospheric Administration
RULES
Coastal zone management program:
37142 OCS pre-lease sale activities: Federal consistency
PROPOSED RULES
Fishery conservation and management:
37022 Foreign fishing; Northwest Atlantic fishing grounds; reduction of over-crowded and dangerous conditions
NOTICES
Marine mammal permit applications, etc.:
37025 Norris, Dr. Kenneth S.
37025 Northwest & Alaska Fisheries Center
37024 Sea World, Inc.
37024 Southeast Fisheries Center
37024 Weber, Dr. Lavern J.
Meetings:
37025 Pacific Fishery Management Council

National Park Service
NOTICES
Environmental statements; availability, etc.:
37091 Great Smoky Mountains National Park, Tenn. and N.C.

National Science Foundation
NOTICES
Meetings:
37092 Astronomical Science Advisory Committee
37093 National Science Foundation Advisory Council (2 documents)
37093 Ocean Sciences Advisory Committee
37092 Science and Society Advisory Committee

Nuclear Regulatory Commission
NOTICES
Meetings:
37093, 37094 Reactor Safeguard's Advisory Committee (2 documents)
37109 Meetings; Sunshine Act

Postal Service
PROPOSED RULES
36991 National Environmental Policy Act; implementing procedures

Pennsylvania Avenue Development Corporation
NOTICES
Committees; establishment, renewals, terminations, etc.:
37096 Procedures Advisory Committee

Prisons Bureau
NOTICES
Meetings:
37092 Corrections Advisory Board National Institute

Reclamation Bureau
RULES
36974 Motor vehicle use, off-road; area designation procedure etc.; correction
NOTICES
Environmental statements; availability, etc.:
37090 Columbia Basin Project, Downstream riverbank stabilization program, Wash.

Secret Service
PROPOSED RULES
36988 Foreign diplomatic missions, protection; assistance to State and local governments

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
37096 Chicago Board Options Exchange, Inc.
37097 New York Stock Exchange, Inc.

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
37023 North Tillatoba-Hunter Creeks Watershed, Miss.

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Materials Transportation Bureau; National Highway Traffic Safety Administration.

Travel Service
NOTICES
Meetings:
37027 Travel Advisory Board

Treasury Department
See also Customs Service; Secret Service.
NOTICES
Antidumping:
37105 Carbon steel plate from Belgium et al.
Notes, Treasury:
37105 U-1981 series

Veterans Administration
NOTICES
Meetings:
37106 Educational Allowances Station Committee

MEETINGS ANNOUNCED IN THIS ISSUE

COMMERCE DEPARTMENT
United States Travel Service—
37027 Travel Advisory Board, 8-14-79

DEFENSE DEPARTMENT
37028 Armed Forces Epidemiological Board, Ad hoc Subcommittee, 7-11-79
Defense Nuclear Agency—
37027 Scientific Advisory Group on Effects, 8-14 through 8-17-79

GENERAL SERVICES ADMINISTRATION
37090 Regional Public Advisory Panel on Architectural and Engineering Services, 7-9 through 7-13-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
37090 Psychiatric Nursing Education Review Committee, 7-16 and 7-17-79
Education Office—
37170 Biomedical Sciences Program, 8-1-79 (Part VII of this issue)
37134 Gifted and Talented Children's Education Program, 8-1-79 (Part IV of this issue)
37164 Indochina Refugee Children Assistance Program, 8-3-79 (Part VI of this issue)
37178 National Diffusion Network Program, 8-3-79
37184 Youth Employment Program, 8-3-79 (Part IX of this issue)
Secretary—
37090 Select Panel for the Promotion of Child Health, 7-9-79

INTERIOR DEPARTMENT
National Park Service—
37091 General Management Plan for Great Smoky Mountain's National Park, Tennessee and North Carolina, 7-25 and 7-26-79

JUSTICE DEPARTMENT
Prisons Bureau—
37092 National Institute of Corrections Advisory Board, 7-29-79

NATIONAL SCIENCE FOUNDATION
37093 Advisory Council Task group No. 5, 7-13-79
37093 Advisory Council Task Group No. 6, 7-26-79
37092 Astronomical Sciences Advisory Committee
37093 Millimeter Wave Facilities Subcommittee, 7-16 and 7-17-79
37093 Ocean Sciences Advisory Committee
37093 Oceanography Project Support Subcommittee, 7-23 and 7-24-79
37092 Science and Society Advisory Committee, 7-11 and 7-12-79

NUCLEAR REGULATORY COMMISSION

37094 Reactor Safeguards Advisory Committee, Metal Components and Combination of Dynamic Loads Subcommittees, 7–10 and 7–11–79

37093 Reactor Safeguards Advisory Committee, Reactor Safety Research Subcommittee, 7–10–79

VETERANS ADMINISTRATION

37106 Station Committee on Educational Allowances, 8–6–79

CANCELLED MEETING

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

37025 Pacific Fishery Management Council's Pink Shrimp Subpanel, 6–25 and 6–26–79

HEARINGS

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

36985 Milk in the Middle atlantic Marketing Area, 7–10–79

ENERGY DEPARTMENT

Economic Regulatory Administration—

36937 Minimum Gasoline Purchase Requirements, 7–31–79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12142 36927

7 CFR
402 36929
Proposed Rules:
1004 36985
1430 36986

10 CFR
205 36934
211 37188
212 36937
Proposed Rules:
456 36987

13 CFR
Proposed Rules:
540 36988

14 CFR
39 (5 documents) 36940–36943
71 36943

15 CFR
930 37142

19 CFR
159 36944

31 CFR
Proposed Rules:
13 36988

32 CFR
888 36944

39 CFR
Proposed Rules:
775 36991

40 CFR
Proposed Rules:
250 36997

41 CFR
3–1 36960
3–3 36960
3–4 36960
3–5 36960
3–7 36960
3–11 36960
3–16 36960
3–30 36960
3–50 36960
3–56 36960

43 CFR
420 36974

44 CFR
Proposed Rules:
67 (9 documents) 36997–37002

45 CFR
1061 36974
Proposed Rules:
122a 37164
160b 37134
161f 37184
161l 37170
193 37178
195 37134

46 CFR
Proposed Rules:
201 37003
208 37003
251 37003

47 CFR
83 36974
Proposed Rules:
15 37008
73 37014
76 37014
83 37015

49 CFR
533 36975
Proposed Rules:
172 37017
173 37017
174 37017
177 37017
178 37017

50 CFR
17 (2 documents) 37124, 37130
Proposed Rules:
611 37022

Federal Register
Vol. 44, No. 123
Monday, June 25, 1979

Presidential Documents

Title 3—

The President

Executive Order 12142 of June 21, 1979

The Alaska Natural Gas Transportation System

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 301 of Title 3 of the United States Code and Sections 201 and 205 of Reorganization Plan No. 1 of 1979, it is hereby ordered as follows:

1–101. Reorganization Plan No. 1 of 1979, not having been disapproved by Congress (S. Res. 126, 125 Cong. Rec. S 6563–64 (May 23, 1979); H. Res. 199, 125 Cong. Rec. H 3950–51 (May 31, 1979)), shall be effective on July 1, 1979.

1–102. In accord with Section 201 of that Plan, there is hereby established the Executive Policy Board for the system for the transportation of Alaska natural gas ("the System") as such system is defined in the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 *et seq.*).

1–103. The Board shall consist of the Secretaries of the Departments of Agriculture, Energy, Labor, Transportation, and the Interior, the Administrator of the Environmental Protection Agency, the Chief of Engineers of the United States Army, and the Chairman of the Federal Energy Regulatory Commission. Additional members may be elected to the Board by vote of a majority of the members. The Board will by majority vote elect a Chairman to serve for a one-year term.

1–104. The Board shall perform the following functions:

(a) Advise the Federal Inspector for the Alaska Natural Gas Transportation System (the "Federal Inspector") established by Reorganization Plan No. 1 of 1979, on policy issues in accord with applicable law and existing Departmental or Agency policies.

(b) Provide advice, through the Federal Inspector, to the officers representing and exercising the functions of the Federal Departments and Agencies that concern the System ("Agency Authorized Officers").

(c) Advise the Federal Inspector and the Agency Authorized Officers on matters concerning enforcement actions.

(d) At least every six months, assess the progress made and problems encountered in constructing the System and make necessary recommendations to the Federal Inspector.

1–105. The Federal Inspector shall keep the Board informed of the progress made and problems encountered in the course of construction of the System.

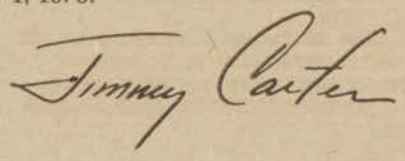
1–106. Whenever the Federal Inspector determines that implementation of Departmental or Agency enforcement policies and procedures would require action inconsistent with Section 9 of the Alaska Natural Gas Transportation Act of 1976, the Federal Inspector shall issue a written statement of such determination including a complete factual and legal basis for the determination. A copy of each statement shall be forwarded promptly to the Board and made available to the public by the Federal Inspector.

1–107. After written notice of a proposed enforcement action is given by the Federal Inspector, the Federal Inspector will be subject to the rules of procedure for *ex parte* contacts as reflected in the guidelines and policies of Departments and Agencies from which the specific enforcement authority is transferred.

1–108. The Federal Inspector and all employees of the Office of the Federal Inspector shall be subject to the provisions of Executive Order No. 11222, concerning standards of conduct for Federal employees. The Federal Inspector shall issue standards of conduct, pursuant to the Order, for the Office of the Federal Inspector.

1–109. To the extent permitted by law, each Department and Agency shall cooperate with and furnish necessary information and assistance to the Board in the performance of its functions.

1–110. This Order shall be effective on July 1, 1979.



THE WHITE HOUSE,
June 21, 1979.

[FR Doc. 79–19836
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Rules and Regulations

Federal Register
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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.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 402

Raisin Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring raisin crops effective with the 1979 crop year. This rule combines provisions from previous regulations for insuring raisins in a shorter, clearer, more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 25, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published notice of proposed rulemaking in the Federal Register (44 FR 27107, Wednesday, May 9, 1979) outlining the prescribed procedures for insuring raisin crops effective with the 1979 crop year. In the notice, FCIC under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that there be issued a revision of Part 402 of Chapter IV in Title 7 of the Code of Federal Regulations and 7 CFR Part 402) to prescribe procedures for insuring raisin crops effective with the 1979 crop year.

The previous regulations applicable to insuring raisin crops as found in 7 CFR Part 402 are not applicable to 1979 and succeeding raisin crops but remain in effect for FCIC raisin insurance policies issued for the crop years prior to 1979.

It has been determined that combining provisions from previous regulations for insuring raisin crops into one shortened, simplified, and clearer regulation would be more effective administratively. In addition, 7 CFR Part 402 provides that (1) any premium not paid by the termination date for indebtedness will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter; (2) eliminates the 30-day period for filing a claim; (3) makes available higher amounts of insurance coverage at $325, $400, and $500 per ton; (4) provides that the insurable varieties of grapes will be shown on the actuarial table rather than on the policy; (5) provides that the insured tonnage will be determined from actual marketing records in no loss years and from tray count and Corporation determination in loss years by estimation which was the previous method; (6) provides that the maximum allowance for any one reconditioning of raisins as a result of rainfall be shown on the actuarial table; (7) provides that a minimum value of $75.00 per ton instead of the previous $25.00 per ton be counted for any raisins not removed from the vineyard; (8) allows the Corporation to waive, by prior written agreement, the right to acquire all of the right, title, and share of the insured in any raisins damaged by rainfall; (9) allows the Corporation to determine by units the insured tonnage and share or declare the insured tonnage on any unit to be "zero" if the insured does not file a tonnage report on or before a date on file in the office for the county; and (10) replaces the previous premium discount provisions with a premium adjustment table which provides premium discounts of up to 50 percent for good insuring experience as well as premium increases for unfavorable insuring experience on an individual contract basis.

The Raisin Crop Insurance Regulations provide a June 30 cancellation date in order to be effective for the crop year. These regulations and any amendments thereto, are to be placed on file in the Corporation's office for the county by not later than 15 days prior to June 30.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received. Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1979 crop year.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues 7 CFR Part 402 with such regulations as were contained therein prior to this revision remaining in effect for FCIC policies issued for crop years prior to 1979. The revised and reissued Part 402 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 402—Raisin Crop Insurance Regulations) shall remain in effect, until amended or superseded, for the 1979 and succeeding crop years, to read as follows:

PART 402—RAISIN CROP INSURANCE

Subpart—Regulations for the 1979 and Succeeding Crop Years

Sec.
402.1 Availability of raisin insurance.
402.2 Premium rates and amounts of insurance.
402.3 Public notice of indemnities paid.
402.4 Creditors.
402.5 Good faith reliance on misrepresentation.
402.6 The contract.
402.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1979 and Succeeding Crop Year

§ 402.1 Availability of raisin insurance.

Insurance shall be offered under the provisions of this subpart on raisins in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the

Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which raisin insurance will be offered.

§ 402.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates, and amount of insurance per ton for raisins which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect an amount of insurance per ton from among those amounts shown on the actuarial table for the crop year.

§ 402.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 402.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 402.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the raisin insurance contract, whenever, (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 402.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the raisin crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 402.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the raisin crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a raisin contract issued under such prior regulations, without the filing of a new application.

(d) The provision of the application and Raisin Insurance Policy for the 1979 and Succeeding Crop Years, and the Appendix to the Raisin Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19—— and Succeeding Crop Years Raisin Crop Insurance Contract

Contract No. ——
Identification No. ——
Name and address ——
Zip Code ——
County ——
State ——
Type of entity ——
Applicant is over 18 Yes——No——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the raisins produced in the above-stated county. The applicant elects from the actuarial table the amount of insurance per ton. THE PREMIUM RATES AND AMOUNTS OF INSURANCE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

Amount of insurance per ton election——
Example: For the 19——crop year only
(100% Share)
Location/farm No. ——
Variety ——
Amount of Insurance per ton* ——
Premium per ton ——
Practice ——
(A) ——

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following raisin insurance policy, the attached appendix, and the provisions of the county actuarial table showing the premium rates, and amounts of insurance shall contitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

Code No./witness to signature——
Signature of applicant ——
Date ——
Address of office for county: ——
Location of farm headquarters——
——
Phone ——

Raisin Crop Insurance Policy Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Cause of loss.* (a) Cause of loss insured against. The insurance provided is against unavoidable loss resulting from rainfall on

*Your amount of insurance will be on a unit basis (tonnage X amount of insurance per ton X share).

the raisins while in the vineyards, on trays, or in rolls for drying and occurring within the insurance period subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss or damage, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good raisin management practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause other than rainfall.

2. *Crop and tonnage insured.* (a) The crop insured shall be raisins produced by the insured on the unit of the grape varieties for which the actuarial table shows an amount of insurance and premium rate per ton: *Provided,* That insurance shall not attach in any crop year to raisins which are first placed on trays after September 20 for those raisins drying in east/west rows, or an earlier date if specified on the actuarial table for those raisins drying in north/south rows, as determined by the Corporation.

(b) The tonnage of raisins insured for each crop year shall be the raisin tonnage and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect.

3. *Responsibility of insured to report tray count, tonnage and share.* (a) If there is no damage to the insured crop, the insured shall submit to the Corporation a report of the net tons of all raisins produced and the insured's share therein as soon as delivery records are available.

(b) In the event of rain damage, the insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing by variety (1) the name of the variety, (2) the location of the vineyard(s), (3) the number of trays upon which the raisins have been placed for drying, and (4) the insured's share.

4. *Amount of insurance.* (a) In a crop year in which there is no damage to the crop, the amount of insurance shall be determined by multiplying the insured tonnage of raisins times the applicable amount of insurance per ton times the insured's share.

(b) In a crop year in which rain damage is reported by the insured, the number of trays upon which raisins have been placed for drying shall be multiplied by the average tray weight, as determined by the Corporation, and such product or actual marketing records or both shall be the basis used to determine the insured tonnage. The amount of insurance of any unit in such crop year shall be determined by multiplying such insured tonnage times the applicable amount of insurance per ton times the insured's share.

5. *Annual premium.* (a) The annual premium for each unit is earned and payable at the time insurance attaches and shall be determined by multiplying the insured's tonnage times the applicable premium rate times the insured's share at the time insurance attaches, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned subsequent to the 1978 crop year shall be considered.

(c) The premium shall be adjusted as shown in the following table:

Percent Adjustments for Favorable Continuous Insurance Experience

Loss ratio [1] through previous crop year	Number of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Percent Adjustments for Unfavorable Insurance Experience

Loss ratio [1] through previous crop year	Number of loss years through previous year [2]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] Loss ratio means the ratio of indemnity(ies) paid to premium(s) earned.

[2] Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* That, when notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium

outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* For each crop year, insurance attaches at the time the raisins are placed on trays for drying, as provided in section 2 above, and ceases upon the earlier of October 25, or the date the raisins are boxed or removed from the vineyard.

7. *Notice of damage or loss.* Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county after such damage to the raisins from rainfall becomes apparent, giving the date(s) of such damage. If not so reported within 7 days, the Corporation reserves the right to reject any claim resulting from such damage on the unit.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) furnish any information required by the Corporation regarding the production, weight and handling of the insured raisins and the manner and extent of loss, and (2) authorize the Corporation in writing to examine and obtain any records pertaining to the production and/or marketing of the insured raisins under this contract from the raisin packer, raisin reconditioner, and/or the Raisin Administrative Committee established under orders issued by the U.S. Department of Agriculture.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by multiplying the insured tonnage of raisins times the applicable amount of insurance per ton times the insured share in the raisins and subtracting therefrom the insured(s) share in the value, as determined by the Corporation, of the damaged and undamaged raisins produced on the unit: *Provided,* That if the premium computed on the insured tonnage and share is more than the premium computed on the reported tonnage and share, the amount of indemnity shall be computed on the insured tonnage and share and then reduced proportionately.

(c) Undamaged raisins or raisins damaged solely by uninsured causes shall be valued at the current market value or the amount of insurance, whichever is higher.

(d) Raisins damaged partially by rainfall and partially by uninsured causes shall be valued at the highest prices obtainable, subject to an adjustment for any reduction in value due to uninsured causes.

(e) Raisins damaged by rainfall, but which are reconditioned and can be marketed as undamaged raisins, shall be valued at the current market price or the amount of insurance, whichever is higher, except that an allowance for reconditioning shall be deducted from such value. The maximum allowance for any one reconditioning as a result of rainfall shall be as shown on the county actuarial table, but such reconditioning allowance, or the aggregate thereof, shall not exceed the value of the raisins after reconditioning as determined by the Corporation.

(f) The Corporation shall have the right to require the insured to recondition a representative sample(s) of not in excess of 10 tons of raisins damaged by rainfall to determine whether or not they may be marketed as undamaged raisins. On the basis of determinations made by the Corporation from such sample(s), the Corporation shall have the right to require the insured to recondition all such raisins or to recondition no more than the representative sample(s). If the reconditioned raisins of the representative sample(s) cannot be marketed as undamaged raisins, the cost of reconditioning such sample(s) shall be deducted from the total value of the raisins for the unit.

(g) In determining the value of raisins produced on the unit, a *minimum* value of $75.00 per ton shall be counted for any raisins not removed from the vineyard, as determined by the Corporation. The insured shall be responsible to box and deliver any raisins that can be removed from the vineyard as determined by the Corporation.

(h) Notwithstanding any other provisions hereof, the Corporation shall have the right, unless waived by prior written agreement, to acquire all of the right, title, and share of the insured in any raisins damaged by rainfall. In such event, the raisins shall be valued at "zero" in determining the amount of loss and the Corporation's representative and employees shall have the right of ingress or egress on the insured's farm to the extent necessary to take possession of, care for, and remove such raisins from the farm.

(i) Raisins destroyed without inspection shall be valued at the applicable amount of insurance per ton.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, separate records of the production, storage, shipments, sale or other disposition of all raisins produced on each unit. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

2. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the June 30 immediately preceding such crop year. In the absence of such notice to cancel, and subject to the provisions of subsection (b) of this section and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the June 30 preceding such crop year: *Provided,* That the date of payment for premium, (1) if deducted from an indemnity claim, shall be the date the insured signs such claim or, (2) if deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

13. *Other insurance.* If the insured in any crop year obtains any other insurance on any unit(s) against rainfall damage or loss while the raisins are on the trays for drying, this contract shall be voided for the current crop year on such unit(s) if such other insurance is obtained before insurance attaches under this contract.

Appendix (Additional Terms and Conditions)

1. *Meaning of Terms*

For the purposes of raisin crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the amounts of insurance per ton, premium rates, varieties, reconditioning allowances, and related information regarding raisin insurance in the county.

(b) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right of way shall be considered contiguous.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the calendar year in which the raisins are placed on trays for drying.

(e) "Insured" means the person who submitted the application accepted by the Corporation.

(f) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(g) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal

entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(h) "Raisin tonnage report" means the form prescribed by the Corporation for annually reporting all of the insured's share and tonnage of raisins in the county.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured raisins as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That the share insured shall be the share of the insured at the time damage becomes apparent as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect.

(j) "Tenant" means a person who rents land from another person for a share of the raisin crop or proceeds therefrom.

(k) "Ton" means 2,000 pounds of raisins on the trays. When deemed appropriate, the Corporation may determine raisin tonnage computed on the basis of one ton of raisins insured for every four and a half tons of fresh grapes when first placed on trays for drying.

(l) "Unit" as to each insured variety of grapes means all acreage in the county of that variety located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land only shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding, what is shown on the raisin tonnage report, and has the right to consider any tonnage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Raisins Insured*

If the insured does not submit a tonnage report on or before the March 31 immediately following the insurance period, the Corporation may elect to determine by units the insured tonnage and share or declare the insured tonnage on any unit(s) to be "zero". If the insured does not have a share in any insured raisins in the county for any year, the insured shall submit a report so indicating. Any tonnage report or tray count report submitted by the insured may be revised only upon approval of the Corporation.

3. *Annual Premium*

(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the vineyard operation, or (3) the contract of the same insured who stops operating a vineyard in one county and starts operating a vineyard in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. *Claim for and Payment of Indemnity*

(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured raisins.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice or denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. *Subrogation*

The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

6. *Termination of the Contract*

(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. *Amount of Insurance*

(a) If the insured has not elected on the application an amount of insurance per ton from among those shown on the actuarial table, the amount of insurance per ton which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purpose.

(b) The insured may, with the consent of the Corporation, change the amount of insurance per ton for any crop year on or before the closing date for submitting applications for that crop year.

8. *Assignment of Indemnity*

Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. *Contract Changes*

The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

Note.—These regulations have been determined nonsignificant under the USDA criteria implementing Executive Order 12044. A draft impact analysis is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4096, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on June 8, 1979.

Dated: June 8, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 13, 1979.

Approved by:

W. Otto Johnson,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 79–19645 Filed 6–22–79; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Hearings and Appeals

10 CFR Part 205

Applications for Stay and Temporary Exception; Amendments

AGENCY: Department of energy, Office of Hearings and Appeals.

ACTION: Interim Final Rule and Request for Public Comment.

SUMMARY: This interim final rule implements amendments to the Department of Energy's administrative procedure regulations regarding Applications for Stay. The primary purpose of the amendments is to clarify the notice which must be given to adverse parties under the stay procedures and to explicitly indicate that affirmative relief may be provided on a temporary basis pending the issuance of a final Decision in an exception or appeal proceeding. Prior notice and comment procedures are not legally required for rules of agency procedure. See 5 U.S.C. 553(b)(A) and the Department of Energy Organization Act, Pub. L. 95–91, section 501. *Federal Energy Guidelines* Par. 10,332 (1978) at p. 10,330. Consequently these amendments to the DOE procedural rules are being implemented immediately. However at the same time, the DOE is requesting public comment regarding the amended procedures.

DATES: Effective date: June 19, 1979, with respect to all submissions filed after that date. However the Office of Hearings and Appeals may apply these interim final regulations to prior submissions in the interest of fairness and efficiency.

COMMENT DATE: Written comments to be submitted by August 1, 1979.

ADDRESS: Written comments to: George B. Breznay, Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

George B. Breznay, Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, Telephone: (202) 254–9681.

Peter B. Bloch, Assistant Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, Telephone: (202) 254–8606

SUPPLEMENTARY INFORMATION: Under the present provisions of the Department of Energy's procedural rules, the Office of Hearings and Appeals may grant immediate relief to an applicant while it is considering the merits of its appeal or exception application. According to Subpart I of the present procedures, for example, a stay may be granted incident to an application for exception, an appeal or pending judicial review. 10 CFR 205.120.

The Office of Hearings and Appeals and its predecessors have always viewed these provisions as permitting the DOE to ameliorate or stay the adverse impact which an applicant would otherwise incur while its submission was being fully evaluated on the merits. Consequently, in the case of appeals, stays have been issued suspending the requirement specified in orders which would otherwise have to be followed. Stays of this nature have generally remained in effect until the underlying appeal has been decided. Immediate relief of this type has also been approved where the underlying submission is an application for exception. Exception applicants generally request that they be relieved of the obligation to comply with particular regulation rule or generally applicable requirement. The regulatory criteria for the approval of an exception are serious hardship, gross inequity, or unfair distribution of burdens. In those instances in which the standards for the approval of a stay have been satisfied the Office of Hearings and Appeals has endeavored to ameliorate the adverse impact of the regulatory requirement involved pending a final decision on the merits of the underlying exception request. As a result the approval of affirmative relief is usually necessary. In addition, because of the nature of the situation which leads an applicant to assert that it is subject to a serious hardship, gross inequity or unfair distribution of burdens, a stay of this nature often affects third parties.

For example, in a number of cases presently pending before the Office of Hearings and Appeals, exception applicants are maintaining that they are subject to such inordinate regulatory burdens as a result of the designation of their base period supplier that they will be forced to terminate their business operations. The relief invariably requested is the designation of a new base period supplier. Where a firm in that situation has also made a showing that it satisfies the criteria under which a stay may be approved, affirmative relief has been granted pending the conclusion of the exception proceeding.

In order to respond to the situation presented, the affirmative relief has been the designation of a new supplier to the firm. It has been the DOE's position that if any meaning is to be given to the procedural remedy of a stay incident to an exception application, affirmative relief of that nature must be afforded to ameliorate the existing situation. Within the past few weeks, some questions have been raised as to whether the current regulations do in fact authorize the DOE to grant affirmative relief in the context of an application for stay incident to an exception proceeding. As stated above relief of this nature is often essential in order to prevent an irreparable injury from occurring, to prevent the frustration of important statutory of regulatory objectives or to mitigate inequities and serious injuries. We are therefore issuing these regulations to emphasize that the DOE has always considered the approval of affirmative relief to be an appropriate exercise of the stay provisions of Subpart I. The regulations are also designed to explicitly state that affirmative relief may be approved incident to the DOE's consideration of a submission before the Office of Hearings and Appeals.

In order to avoid any possible doubt of the DOE's intention with respect to this issue a new provision has been added to the stay subpart entitled "Temporary Exceptions." Under § 205.128 of the new regulations a temporary exception may be issued to "implement on an immediate basis any relief appropriate to the application and available in response to an application for exception filed pursuant to Subpart D." The new regulations also state in explicit terms that a temporary exception may order any person subject to the jurisdiction of the DOE to take affirmative action to mitigate an injury that would otherwise occur.

A temporary exception may be issued only after the Office of Hearings and Appeals evaluates, weighs and balances the criteria specified in § 205.125(b). The burden of showing that a temporary exception is warranted rests of course on the applicant. However an applicant need not show that it satisfies each one of the criteria specified. Rather, it must establish that, on balance, the application of the criteria to the facts in the case at issue indicates that a stay or temporary exception should be approved. It is the intention of the Office of Hearings and Appeals to receive, consider and decide applications for temporary exceptions in the same manner as applications for stay have been processed and decided in the past. As stated above, the new temporary exception provision is principally designed to state in explicit terms the type of relief which the DOE always intended the regulations to accord to

applicants for stay incident to applications for exception.

In addition to the temporary exception provision, these regulations also contain more explicit regulatory provisions for providing notice to parties in stay and temporary exception proceedings. Under § 205.123(a) an applicant must serve each person readily identifiable as one who will be aggrieved by the DOE action sought with a copy of the application. Notice is also required to be given to those persons of the date, time and place of any hearing. As is the case with judicial proceedings, however, notice requirements may be waived by the Office of Hearings and Appeals if the urgency of the situation requires immediate action. In that event any adversely affected person may request that the temporary exception be rescinded. (§ 205.128(e).) The regulations also expressly state that a decision in a stay or temporary exception proceeding may be made orally following a hearing or conference in which an official transcript is maintained. In that situation the determination of the Office of Hearings and Appeals as set forth in the transcript will have the same force and effect as a separate written Decision and Order signed by the Director of the Office of Hearings and Appeals or his designee. However, if a Decision and Order is issued at a later date in the matter, that determination will supersede the decision and order contained in the official transcript.

In addition to the changes described above, the new regulations also re-order certain portions of the prior Subpart I regulations and contain stylistic and technical changes.

In view of the fact that these new reguations are rules of agency procedure, they are not subject to prior notice and comment procedures. See 5 U.S.C. 553(b)(A) and Department of Energy Organization Act, section 501. *Federal Energy Guidelines* Par. 10,332 (1978) at p. 10,330. Furthermore, the amended regulations are exempt from formal notice and comment rulemaking procedures since they merely state the standards that had previously been applied by the Office of Hearings and Appeals. Accordingly, they do not involve substantial issues of fact and law and are unlikely to have a substantial impact on the national economy or on a large number of individuals or businesses. See Department of Energy Organization Act, Section 501(c)(1). The urgent shortage situations involving motor gasoline and other allocated products that the Office of Hearings and Appeals is presently considering also make it necessary to utilize these procedures immediately. In addition, as we have emphasized above, the DOE always envisioned that the remedies specified in these new regulations were already available under the present Subpart I requirements. For these reasons we have concluded that the new regulations should be implemented immediately as interim final rules. We will however receive written comments with respect to these new regulations and will issue a final rule after considering the comments submitted. Any comments regarding these regulations should be submitted in writing no later than August 1, 1979 to:

George B. Breznay, Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461.

In accordance with section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission received a copy of the proposed rulemaking. The Commission has not notified the Office of Hearings and Appeals within the prescribed time that the proposed regulations would significantly affect any function within its jurisdiction under sections 402(a)(1), (b), and (c)(1) of the DOE Act.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–91; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70; Department of Energy Organization Act, Pub. L. 95–91, as amended, Pub. L. 95–620; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 205 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., June 19, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. The table of contents for Part 205 is amended by revising the designation of Subpart I, revising the entries for §§ 205.120 through 205.127, and by adding § 205.128.

Subpart I—Stay and Temporary Exception

Sec.
205.120 Purpose and scope of relief.
205.121 What to file.
205.122 Where to file.
205.123 Notice.
205.124 Contents.
205.125 DOE Evaluation.
205.126 Decision and Order with regard to applications for stay.
205.127 Temporary stay.
205.128 Temporary exception.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–91; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70; Department of Energy Organization Act, Pub. L. 95–91, as amended, Pub. L. 95–620; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.

2. The designation for Subpart I is amended. Sections 205.120 through 205.127 are amended and § 205.128 is added as follows:

Subpart I—Stay and Temporary Exception

§ 205.120 Purpose and scope of relief.

(a) This subpart establishes the procedures for applying for a stay or a temporary exception. It also specifies the nature of the relief which may be effectuated through the approval of a stay or temporary exception.

(b) An application for a stay or temporary exception will be considered if it is incident to a submission which the DOE procedural regulations specify shall be filed with the Office of Hearings and Appeals. An application for stay may also be considered if the stay is requested pending judicial review of an order issued by the Office of Hearings and Appeals.

(c) All applicable DOE orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay or temporary exception is granted.

(d) The Office of Hearings and Appeals may in its discretion regard an Application for Stay as seeking a temporary exception if it concludes that a temporary exception is the more appropriate remedy. Similarly, the Office of Hearings and Appeals may regard a submission labeled as an Application for Temporary Exception as an Application for Stay.

§ 205.121 What to file.

(a) A person filing under this subpart shall file an "Application for Stay," or an "Application for Temporary Exception" which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted. The application shall be in writing and signed by the person filing it. The

applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.122 Where to file.

(a) An application for stay of a DOE order incident to an appeal from the order shall be filed with the Office of Hearings and Appeals or with the appropriate Regional Office of Hearings and Appeals at the address provided in § 205.12.

(b) An application for stay of any or all DOE regulations, rulings, or generally applicable requirements incident to an application for an exception therefrom shall be filed with the Office of Hearings and Appeals or with the appropriate Regional Office of Hearings and Appeals as specified in § 205.52 at the address provided in § 205.12.

(c) An application for temporary exception incident to an application for exception shall be filed with the Office of Hearings and Appeals or with the appropriate Regional Office of Hearings and Appeals as specified in § 205.52 at the address provided in § 205.12.

(d) An application for stay of a DOE order or of the application of any DOE regulations, rulings or generally applicable requirements pending judicial review shall be filed with the office that issued the order of which judicial review is sought.

§ 205.123 Notice.

(a) An applicant for stay or temporary exception shall notify each person readily identifiable as one who will be directly aggrieved by the DOE action sought that it has filed an application for stay or an application for temporary exception. The applicant shall serve the application on each identified person and shall notify each such person that the Office of Hearings and Appeals will receive and endeavor to consider, subject to time constraints imposed by the urgency of the proceeding, written comments on the application that are submitted immediately.

(b) Any person submitting written comments to the Office of Hearings and Appeals with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the Office of Hearings and Appeals that it has complied with the requirements of this paragraph. The Office of Hearings and Appeals may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

(c) The Office of Hearings and Appeals shall require the applicant to take reasonable measures depending on the circumstances and urgency of the case to notify each person readily identified as one that will be directly aggrieved by the DOE action sought of the date, time and place of any hearing or other proceedings in the matter. However, if the Director of the Office of Hearings and Appeals or his designee concludes that the circumstances presented by the applicant justify immediate action, the Office of Hearings and Appeals may issue a Decision on the application for stay or temporary exception prior to receipt of written comments or the oral presentation of views by adversely affected parties.

§ 205.124 Contents.

(a) An application for stay or temporary exception shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the DOE action sought. Such facts shall include, but not be limited to, all information that relates to satisfaction of the criteria in § 205.125(b).

(b) The application shall include a description of the proceeding incident to which the stay or temporary exception is being sought. This description shall contain a discussion of all DOE actions relevant to the proceeding.

(c) The applicant shall state whether he requests that a conference or hearing be convened regarding the application.

§ 205.125 DOE evaluation.

(a) *Processing.* (1) The Office of Hearings and Appeals may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The Office of Hearings and Appeals may solicit and accept submissions from third persons relevant to an application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the Office of Hearings and Appeals may also consider any other source of information.

(2) If the Office of Hearings and Appeals determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the Office of Hearings and Appeals may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the Office of Hearings and Appeals may dismiss the application with prejudice.

(3) The Office of Hearings and Appeals shall process applications for stay and temporary exception as expeditiously as possible. When administratively feasible, the Office of Hearings and Appeals shall grant or deny an application for stay or temporary exception within 10 business days after receipt of the application.

(4) Notwithstanding any other provision of the DOE Regulations the Office of Hearings and Appeals may make a decision on an application for stay or temporary exception prior to the receipt of written comments.

(b) *Criteria.* The criteria to be considered and weighed by the Office of Hearings and Appeals in determining whether a stay or temporary exception should be granted are:

(1) Whether a showing has been made that an irreparable injury will result in the event that the stay or temporary exception is denied;

(2) Whether a showing has been made that a denial of the stay or temporary exception will result in a more immediate hardship or inequity to the applicant than to the other persons affected by the proceeding;

(3) Whether a showing has been made that it would be desirable for public policy reasons to grant immediate relief pending a decision on the merits of the underlying appeal or exception application;

(4) Whether a showing has been made that it is impossible for the applicant to fulfill the requirements of an outstanding order or regulatory provision; and

(5) Whether a showing has been made that there is a strong likelihood of success on the merits.

§ 205.126 Decision and order with regard to applications for stay.

(a) In considering applications for stay the Director of the Office of Hearings and Appeals or his designee may order the submission of additional information and conduct hearings or conferences either in response to requests by parties in the proceeding or on his own initiative.

(b) In reaching a decision with respect to an application for stay, the Office of Hearings and Appeals shall consider all relevant information in the record. An application for stay may be decided by the issuance of an Order either during the course of a hearing or conference in which an official transcript is

maintained or in a separate written Decision and Order. Any such order shall include a statement of the relevant facts and the legal basis of the decision.

(c) The approval or denial of a stay is not an order of the DOE that is subject to administrative review, except as provided in § 205.199D(h)(2).

(d) In its discretion and upon a determination that it would be desirable to do so in order to further the objectives stated in the regulations or in the statutes the DOE is responsible for administering, the Office of Hearings and Appeals may order a stay on its own initiative.

§ 205.127 Temporary stay.

(a) The Director of the Office of Hearings and Appeals or his designee may issue an order granting a temporary stay if he determines that an applicant has made a compelling showing that it would incur an irreparable injury unless immediate stay relief is granted pending the submission of and determination on an application for stay submitted pursuant to this subpart. If he concludes that a showing has been made that a temporary stay should be granted, the Director of the Office of Hearings, and Appeals or his designee may waive any other procedural requirement of this Part.

(b) An application for temporary stay shall be labeled as such on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. It shall include a description of the proceeding incident to which the stay is being sought and of the facts and circumstances which support the applicant's claim that it will incur an irreparable injury unless immediate stay relief is granted. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this section. The Office of Hearings and Appeals may on its own initiative issue an order granting a temporary stay upon a finding that a person will incur an immediate irreparable injury or that the public interest will be adversely affected to a substantial extent unless a temporary stay is ordered.

(c) An order granting a temporary stay shall expire by its terms within twenty (20) business days after its issuance, unless the Office of Hearings and Appeals specifies a shorter expiration date.

(d) The grant or denial of a temporary stay is not an order of the DOE subject to administrative review, except as provided in § 205.199D(h)(2).

§ 205.128 Temporary exception.

(a) After considering the factors set forth in § 205.125(b), the Director of the Office of Hearings and Appeals or his designee may issue an Order granting a temporary exception to an applicant. A temporary exception may implement on an immediate basis any relief appropriate to the application and available in response to an application for exception filed pursuant to Subpart D. A temporary exception may also order any person subject to the jurisdiction of the DOE under Part 211 or Part 212 to take action which the Office of Hearings and Appeals determines to be appropriate in order to alleviate the adverse impact which the applicant for exception relief claims would otherwise occur. The action referred to in this subparagraph includes but is not limited to an order to a supplier to sell crude oil or a petroleum product to a firm at a price specified in or determined pursuant to a temporary exception decision.

(b) A temporary exception may, in the discretion of the Office of Hearings and Appeals, remain in effect until a final Decision and Order is issued with respect to the Application for Exception filed or to be filed by the applicant.

(c) In considering applications for temporary exception, the Director of the Office of Hearings and Appeals or his designee may order the submission of additional information and conduct conferences or hearings either in response to requests by the parties or on his own initiative.

(d) An application for temporary exception shall include a description of the proceeding incident to which the temporary exception is being sought and of the facts and circumstances which support the applicant's claim that on balance, it satisfies the criteria set forth in § 205.125(b). In reaching a decision with respect to an application for temporary exception, the Office of Hearings and Appeals shall consider all relevant information in the record. An application for temporary exception may be decided by the issuance of an Order either during the course of a hearing or conference in which an official transcript is maintained or in a separate Decision and Order. Any such Order shall include a statement of the relevant facts and the legal basis of the decision.

(e) A temporary exception shall, to the extent practicable, be issued only after notice to each person that can be readily identified as one that will be directly aggrieved by the temporary exception decision. However, if a showing is made that immediate action is necessary to prevent an irreparable injury to the applicant or to the public interest the Director of the Office of Hearings and Appeals or his designee may waive the notice requirements for applications for temporary exception that are otherwise specified in this part and issue an immediate decision with regard to the application for temporary exception. The Office of Hearings and Appeals may also on its own initiative issue an order granting a temporary exception upon a finding that a person will incur an immediate irreparable injury if such an order is not issued or that the public interest will be adversely affected to a substantial extent unless a temporary exception is approved. Any firm that is adversely affected to a direct and substantial extent by the issuance of a temporary exception and did not have notice of the pendency of the proceeding may request a reconsideration of the determination within 10 days of service of the temporary exception order. The Office of Hearings and Appeals shall decide any such request for reconsideration within twenty (20) business days.

(f) An order granting an application for temporary exception shall automatically expire within twenty (20) business days after issuance unless, within that period of time or within an earlier period if so specified by the Office of Hearings and Appeals, the applicant files an Application for Exception pursuant to Subpart D.

(g) The grant or denial of a temporay exception is not an order of the DOE subject to administrative review.

[FR Doc. 79-19673 Filed 6-22-79; 8:45 am]

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Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-31]

Emergency Adoption of Special Rule No. 2 to Part 212—Motor Gasoline End-User Minimum Purchase Rule

AGENCY: Department of Energy Economic Regulatory Administration.

ACTION: Emergency adoption of special rule and notice of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is today adopting a special rule to deal with current motor gasoline supply problems. The special rule provides that a minimum purchase requirement for retail gasoline purchases does not constitute a

violation of ERA's price regulations, so long as the Governor of a State specifies a minimum dollar purchase requirement.

This special rule is being adopted on an emergency basis in order to enable States to stablize their gasoline markets, to reduce long waiting lines, and to otherwise minimize the adverse impacts of the current tight supply situation for motor gasoline.

DATES: Effective date: June 19, 1979. Ceases to be effective September 30, 1979. Requests to speak by July 18, 1979. Hearing date: July 31, 1979. Written comments by August 31, 1979.

ADDRESSES: Written comments and requests to speak to: Office of Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA–R–79–31, 2000 M Street, N.W., Washington, D.C. 20461. Hearing Location: Room 2105, 2000 M Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222–A, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 634–2170.

Maurice Boehl (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–7200.

Fred Wolgel (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–6754.

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendment Adopted
III. Procedural Requirements
A. Section 501 of the DOE Act
B. Section 404 of the DOE Act
C. Section 7 of the FEA Act
D. National Environmental Policy Act
E. Section 553 of the Administrative Procedure Act
F. Executive Order 12044
IV. Written Comment and Public Hearing Procedures
A. Written Comments
B. Public Hearing

I. Background

In the past months we have both noted and addressed in various rules the problem of shortages of petroleum products.

The current tight supply of gasoline is a result of several factors. First, due largely to the interruption of Iranian crude oil exports in the first quarter of this year, crude oil imports to the United States in the first quarter of 1979 were about 700,000 barrels per day less than needed to maintain petroleum product stocks at desired levels. Consequently, refinery utilization rates declined from 91 percent last December to 87.2 percent in January, 83.8 percent in February, and increased only slightly to 84.1 percent in March and 84.9 percent in April.

Second, competing with the need for gasoline is also the critical need for middle distillates produced from the same short supply of crude oil. The stocks of middle distillates are at extremely low levels and, as a result, refiners have been urged to build up adequate stocks of heating oil for the winter.

Third, the demand for gasoline has increased substantially over that of a year ago. Moreover, current gasoline stocks, which typically are at their peak at this time of the year to provide for the spring and summer months, are below normal levels.

The recent long gasoline lines, station closings and disruptions of motorists' life styles in California resulting from shortages of gasoline have been fully reported by the media. Similar problems have begun to develop in other areas of the nation. Violence in gasoline lines and breakdowns in necessary governmental services could become widespread if measures are not available to assure that the short supplies will be distributed to motorists in a fair, equitable, and predictable manner. Motorists purchasing small quantities of gasoline only exacerbate long lines and result in many motorists who need to fill up their tanks not being able to do so.

In order to alleviate this situation, the President issued an Executive Order on May 29, 1979, delegating to the Governors the authority vested in the President under the Emergency Petroleum Allocation Act of 1973, as amended (EPAA) (Pub. L. 93–159), to impose a system of "odd/even" gasoline sales, and/or to establish minimum purchase requirements for retail gasoline sales. The Executive Order terminates, unless extended, at midnight on September 30, 1979. In order to assure that DOE's price regulations shall not impose any barrier to minimum purchase requirements adopted by States during the period in which this Executive Order is in effect, we are adopting a special rule, effective immediately, which amends DOE's price regulations to permit minimum purchase requirements stated in terms of a dollar limitation established by the Governors of the States.

II. Amendment Adopted

The action we are taking today amends the price rules applicable to retailers of motor gasoline set forth in 10 CFR Part 212 by the addition of a new Special Rule No. 2 to that Part. Special Rule No. 2 provides that if the Governor of a State, acting under either a State law or under any authority delegated to him under the EPAA specifies a minimum purchase requirement, stated in a dollar amount, it will not be a violation of the price regulations for retail sales outlets to require all purchasers to purchase that minimum amount, as long as the price of such gasoline does not exceed the dealers' maximum lawful price. The retail sales outlet may collect the minimum dollar amount as specified by the Governor even though the purchaser does not purchase a sufficient volume of gasoline at the dealer's posted price to reach the minimum dollar amount.

The special rule provides that the term "Governor" shall also include the Chief Executive Officer of the District of Columbia, Puerto Rico and the territories and possessions of the United States, other than the Panama Canal Zone.

Special Rule No. 2 will terminate at midnight September 30, 1979, unless the ERA determines that it is necessary to extend the Rule. September is the traditional end of the peak summer driving season.

III. Procedural Requirements

A. *Section 501 of the DOE Act*

Under section 501(e) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, DOE Act), we may waive the prior notice and hearing requirements of subsections (b), (c) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance. While we urge motorists to reduce their demand for gasoline to the point where current supply problems will be alleviated, there remains a serious possibility, based upon projections of gasoline supplies and other available information, that spot shortages such as have occurred in California and some other regions will continue throughout the summer and spread to other parts of the nation. We believe that the adoption of this special rule on an emergency basis will remove any barrier that may exist for States to impose reasonable minimum purchase requirements. The imposition of such

measures in the event of shortages of gasoline should prevent "tanktopping", and thereby should reduce long lines for gasoline and reduce uncertainty to motorists and may avert possible violence in gasoline lines.

However, in accordance with section 501(e), and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are soliciting public comments and will hold a public hearing as outlined below on the special rule adopted today. Based on the comments received and our further analysis of these issues, we will determine whether any further revisions of or adjustments to the special rule adopted today are needed, and whether the scope of the special rule should be otherwise modified.

B. *Section 404 of the DOE Act*

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402(a) (1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review this special rule, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

C. *Section 7 of the FEA Act*

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Prior review by the EPA Administrator may be waived for a period of fourteen days if there is an emergency situation which necessitates that a proposed action be made effective at a date earlier than that which would permit the EPA Administrator the five working days opportunity for prior comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the **Federal Register** with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

We have determined that the five working days opportunity for prior comment by the EPA Administrator should be waived. The reasons for the waiver are the same as those which support making this special rule effective immediately and are set forth in the preceding sections of this preamble. A copy of the amendment and this preamble have been provided to the EPA.

D. *National Environmental Policy Act*

It has been determined that this special rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA. Implementation of this special rule will neither increase nor decrease the currently available supply of gasoline. Neither will it alter the existing system of gasoline and supply allocations. In addition, this special rule is a temporary measure which will expire on September 30, 1979.

E. *Section 553 of the Administrative Procedure Act*

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553 (d) requirement for the reasons stated above in support of making this special rule effective immediately.

F. *Executive Order 12044*

The sixty-day advance public comment period required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy for the reasons previously stated for making the special rule effective immediately.

IV. Written Comment and Public Hearing Procedures

A. *Written Comments*

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this special rule. Comments should be submitted by the date indicated in the "Dates" section of this notice and to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Emergency Motor Gasoline End-User Minimum Purchase Rule." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearing*

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may make a oral request for an opportunity to make oral presentation by 4:30 p.m., e.d.t., July 18, 1979. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.d.t., July 23, 1979, and will be required to submit one hundred copies of your statement to the appropriate address indicated in the "Addresses" section of this notice before 4:30 p.m., e.d.t., July 30, 1979.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a

judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended as set forth below, effective immediately.

Issued in Washington, D.C., June 19, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

The Appendix to Part 212 is amended by adding Special Rule No. 2 to read as follows:

Appendix—Special Rule No. 2 End-User Minimum Purchase Rule

1. Where a retail sales outlet requires all retail purchasers to purchase a minimum amount of gasoline expressed in dollars, as determined by the Governor of that State, and the per gallon price of such gasoline does not exceed his maximum lawful price for such gasoline, it shall not be a violation of price regulations in this Subpart to collect such an amount even though the purchaser does not purchase sufficient volumes of gasoline at the seller's posted, lawful per gallon price to reach the minimum dollar amount, so long as the Governor of that State determines either under a State law or under any authority delegated to him under the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93-159), to specify a minimum dollar purchase requirement to apply in that State or locality.

2. For purposes of this special rule, the term "Governor" includes the Governors of the 50 States, the Chief Executive Officer of the District of Columbia, Puerto Rico and the territories and possessions of the United States, other than the Panama Canal Zone.

3. This special rule shall terminate, unless extended by the Economic Regulatory Administration, at midnight on September 30, 1979.

[FR Doc. 79-19649 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-NW-15-AD: Amend. 39-3502]

Boeing Model 707-300/400/300B/300C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This document amends an Airworthiness Directive (AD) for certain model Boeing 707's. During a recent inspection of a 707-300 B airplane, a 35-inch crack was found which was not detected using the AD inspection technique. This amendment to the AD improves the eddy current inspection of the splice plate in order to detect cracks which do not intersect fastener holes.

EFFECTIVE DATE: July 3, 1979.

FOR FURTHER INFORMATION, CONTACT: Mr. Harold N. Wantiez, P. E. Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: AD 75-03-01 requires a repetitive inspection, in accordance with Boeing Service Bulletin 3157, of the wing upper skin splice at wing station 360. During a recent inspection of a 707-300 B airplane, a 35-inch crack was found which was not detected using the AD inspection technique. The manufacturer's service bulletin 3157 was revised to improve the eddy current inspection of the splice plate in order to detect cracks which do not intersect fastener holes. The revision to the service bulletin was issued as Revision 7 and was released April 13, 1979. Inspections accomplished after the effective date of this amendment, are to be in accordance with Revision 7 only or pertinent inspections approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Workload for the inspecting maintenance personnel under the revised procedure will remain substantially the same.

Since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary and amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive 75-03-01 (Amendment 39-2074, 40 FR 3287; as amended by Amendment 39-2421, 40 FR 52607), as follows:

Delete paragraph A(2) and replace with the following new paragraph A(2) "(2) Low frequency eddy current inspect as specified in Boeing Service Bulletin No. 3157, Revision 7, or inspections approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region."

This amendment becomes effective July 3, 1979.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on June 13, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-19730 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 78-WE-3-AD; Amdt. 39-3498]

Lockheed-California Co., Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This document amends an Airworthiness Directive (AD) for certain model Lockheed L-1011's. The Lockheed Company has developed a procedure for in-place repair of center engine "S" duct flexible fire seal. This amendment authorized in-place repairs and permits the use of a revised Service Bulletin to provide these repair instructions. The amendment is needed to minimize the burden on those affected by the AD.

DATES: Effective June 25, 1979.

ADDRESS: The applicable service information may be obtained from:

Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts Department 63-11, U-33, B-1

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Amendment 39-3296 (43 FR 41016, September 14, 1978) AD 78-18-06 was made effective October 13, 1978 to require inspection, protection, repair or replacement of the Lockheed Model L-1011 Series Airplanes center engine "S" duct flexible fire seal. At approximately the time of issuance (but prior to the effective date of the AD), the Lockheed Company was in process of developing a procedure for in-place repairs. This procedure is contained in Revision 1 to Lockheed-California Service Bulletin 093-54-030. On September 21, 1978 a letter authorizing accomplishment of in-place repairs as specified in paragraph 2D of SB 093-54-030 Revision 1 as an equivalent procedure to the repairs described in paragraph (e)(2) of the AD was issued.

The purpose of this amendment is to revise the AD to incorporate the finding of equivalency previously issued by letter under the authority of paragraph (i) of the AD.

Since this amendment provides an alternate means of compliance and a clarification and imposes no additional burden on any person, notice and public procedure hereon are not necessary and the amendment may be made effective in less than thirty days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending Amendment 39-3296 "Note" and paragraph (e)(2) to read in pertinent part as follows:

* * * * *

Note.—Service Bulletin 093-54-030, dated March 28, 1978 and Service Bulletin 093-54-030, Revision 1, are suitable for demonstrating compliance with paragraphs (c) through (h) of this AD. * * *

(e) * * *

(2) Repair seal per paragraph 2.C of Service Bulletin 093-54-030 dated March 28, 1978 or per paragraph 2.D of Service Bulletin 093-54-030, Revision 1, and reinspect within 8500 hours additional time in service; * * *

* * * * *

This amendment becomes effective June 25, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on June 8, 1979.

Leon C. Daugherty,

Director, FAA Western Region.

[FR Doc. 79-19729 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-ASW-15; Amdt. 39-3504]

Airworthiness Directives; Beech Model 50 Series Airplanes Modified by Supplemental Type Certificate SA76SW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires installation of fire resistant flammable fluid carrying lines and fire detector systems on Beech Model 50 series airplanes modified by Supplemental Type Certificate (STC) SA76SW. This AD is prompted by issuance of Amendment 39-3413 (AD 78-11-01) which deleted these modified airplanes from the effectivity of the original version of AD 78-11-01 because of discrepancies in the application of the manufacturer's service bulletin. Revised service bulletins correcting these deficiencies are now available.

DATES: Effective—July 5, 1979. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service bulletins may be obtained from the Excalibur Aviation Company, Post Office Box 32007, San Antonio, Texas 78216. Copies of these service bulletins are contained in the Rules Docket at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: A. A. Backstrom, Propulsion Section (ASW-214), Engineering and Manufacturing Branch, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101, telephone number 817-624-4911, extension 524.

SUPPLEMENTARY INFORMATION: The FAA has determined that a potential fire hazard found in some standard Beech Model 50 and Model 65 series airplanes, which prompted issuance of Amendment 39-3220 (AD 78-11-01) also exists in airplanes modified per STC SA76SW. To alleviate this condition, an Airworthiness Directive is being issued applicable to Beech Model 50 series airplanes modified per STC SA76SW which requires the installation of fire resistant flammable fluid carrying lines and fire detector systems similar to those prescribed by AD 78-11-01 on Beech airplanes.

Since a situation exists which requires the immediate adoption of this regulation, it is found that notice and

public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Beech. Applies to Models C50, D50, D50A, D50B, D50C, D50E, E50, F50, G50, H50, and J50 airplanes modified in accordance with STC SA76SW certified in all categories.

Compliance is required as indicated unless already accomplished.

To reduce the possibility of powerplant fire occurrence and improve powerplant fire containment and detection capabilities, accomplish the following:

a. Within 25 hours time-in-service after the effective date of this Amendment, incorporate into the existing Airplane Flight Manual, the temporary Airplane Flight Manual Supplement included in this AD as Figure 1 or Excalibur Aviation Flight Manual Supplement dated May 31, 1979, or later approved revision.

b. Within 100 hours time-in-service after the effective date of this Amendment, accomplish items (1), (2), (3) and (4) below, except that this compliance, time may be extended to 200 hours time-in-service if the inspection of components forward of the firewall required by AD 79–01–02 is accomplished at intervals no greater than 50 hours time-in-service during this compliance time extension:

(1) Replace existing flexible fuel, oil, hydraulic, and fuel or oil vapor carrying hose assemblies except engine breather and drain lines in the engine compartment with equivalent length and diameter hoses having strength and fire resistance qualities meeting FAA Technical Standard Order C53A, Type C or D, or as specified below. Hose assemblies fabricated or Stratoflex Type 111 or 130 hose covered by fire resistant sleeve, Stratoflex Type 2650 or 2607, or Aeroquip hose Type 303 covered with fire resistant sleeve Type AE102 or 624, or an FAA-approved equivalent are acceptable. (Pressure test the hose assemblies in accordance with industry practice.)

Use old hoses as a pattern when fabricating new hoses. Caution should be exercised to assure end fittings on new hoses are equivalent to old hose end fittings. Install hoses observing the manufacturer's torque limits. Apply paint or torque putty to fittings after tightening.

(2) On airplanes having engines with the Bendix fuel injection system, after changing all engine and installation fuel system hoses but prior to connecting the hose at the fuel injector nozzle located at the top of the induction housing, cap this hose at the nozzle end, select main tanks, turn main boost pumps ON, place mixture controls in rich positon, and check all fuel carrying lines and fittings for leakage. Correct any leaks detected and recheck prior to installing hose on nozzle fittings.

(3) On airplanes other than those specified in paragraph b(2) above, after changing all installation fuel system hoses, with mixture control in "cut off" position, select main tanks, turn main boost pump ON, and check all fuel carrying lines and fittings for leakage. Correct any leaks detected and recheck.

(4) After determining that no fuel is trapped in the induction system, conduct the run-up specified in Figure 1 and inspect all hoses and fittings for signs of fuel or oil leakage.

c. On or before October 19, 1979, install continuous type fire detector systems in the engine compartment and wheel wells in accordance with the Beech Service Kit No. 80–9010, or the Shadin Kit No. 2125–1, with revisions as covered by Excalibur Aviation Company Service Bulletin No. 79–01.

d. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

Temporary Airplane Flight Manual Supplement for Beech Model 50 Series Airplanes

(AD 79–13–01 requires this supplement to remain in the airplane flight manual until replaced by Excalibur Aviation Company Flight Manual Supplement dated May 31, 1979, or later approved revisions.)

Model ———— N– ———— S/N

In addition to the presently specified preflight procedures, prior to the first flight of each day, accomplish the following:

1. Start both engines and operate at 1500 RPM. After the oil pressures stabilize, shut down the engines using the mixture control.

2. Open the cowl doors on both sides of the engines and check all engine compartment fluid hoses and fittings for indications of fluid (fuel or oil) leakage. Check the wheel wells for these same conditions using a flashlight or supplemental light as necessary to provide adequate illumination of the area.

3. Correct any leak detected and secure cowl doors.

4. Record in Airplane Maintenance Records.

Beechcraft Service Instructions No. 0999, Shadin Report No. 2125, and Excalibur Aviation Company Service Bulletin 79–01 or later approved revisions referenced herein cover the subject matter of this AD.

This amendment becomes effective July 5, 1979.

The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Texas, on June 13, 1979.

Paul J. Baker,

Acting Director, Southwest Region.

[FR Doc. 79–19094 Filed 6–22–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Airworthiness Docket No. 79–ASW–20; Amdt. 39–3503]

Swearingen Models SA226–T, SA226–T(B), SA226–AT, and SA226–TC Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) requiring installation of striker plates on nose baggage door frame to reduce the clearance between the latches and the door frame and the installation of covers over the inside door latches. The AD is needed to prevent disengagement of nose baggage door latches due to baggage shifting and striking inside latches. This could result in door opening and baggage falling out of nose baggage compartment and striking aircraft propeller or other components of aircraft.

DATES: Effective June 28, 1979. Compliance is required within the next 100 hours' time in service after the effective date.

ADDRESSES: Service information may be obtained from persons or offices noted in this AD.

FOR FURTHER INFORMATION CONTACT: Milton G. Martin, Airframe Section, Engineering and Manufacturing Branch, ASW–212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone 817–624–4911, Extension 516.

SUPPLEMENTARY INFORMATION: There have been reports of baggage in the nose baggage compartment on Swearingen Models SA226–T, SA226–T(B), SA226–AT, and SA226–TC aircraft shifting, striking, and disengaging door latches inside the compartment. Although there are two latches on both left-hand and right-hand doors, in one instance both latches on one door became disengaged and luggage fell out of the aircraft while taxiing. The luggage struck and caused extensive damage to the propeller and nose and bottom of aircraft. Since the nose baggage compartment latches could similarly become disengaged on

aircraft of the same type design, an airworthiness directive is being issued to require installation of striker plates on the nose baggage door frame to reduce the clearance between the latches and door frame and the installation of covers over the inside latches on Swearingen Models SA226–T, SA226–T(B), SA226–AT, and SA226–TC airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Swearingen. Applies to Models SA226–T, S/N T201 through T291 except T276; Model SA226–T(B), S/N T276, and T292 through T302; Model SA226–AT, S/N AT001 through AT071; Model SA226–TC, S/N TC201 through TC286.

Compliance is required within the next 100 hours' time in service after the effective date of this AD unless already accomplished.

In the event the aircraft is located where the modification cannot be accomplished within the the required hours' time in service after the effective date of this AD, a special flight permit pursuant to FAR 21.197 may be issued to allow ferrying of the aircraft to a facility where the required modification can be accomplished.

To prevent inside latches of nose baggage compartment door from becoming disengaged by shifting baggage, accomplish the following unless already accomplished:

(a) Install striker plates on the nose baggage door frames and covers over the inside door latches in accordance with Swearingen Aviation Corporation Service Bulletin SB 52–007 revised May 29, 1979, or an FAA approved equivalent.

(b) The manufacturer's instructions identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the director of Products Support, Swearingen Aviation Corporation, P.O. Box 32486, San Antonio, Texas 78284. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective June 28, 1979.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89))

Issued in Fort Worth, Texas, on June 13, 1979.

Paul J. Baker,

Acting Director, Southwest Region.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 14, 1967.

[FR Doc. 79-19683 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-SO-40; Amdt. No. 39-3501]

Piper Aircraft Corp. Models PA-31, PA-31-300, PA-31-325, PA-31-350, PA-31P, PA-31T and PA-31T1; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final Rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to certain Piper Aircraft Corporation PA–31 series aircraft by adding the Piper PA–31–350 series models, which should have been included on the original amendment.

DATES: Effective July 2, 1979. Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: Piper Service Bulletin No. 649 may be obtained from Piper Aircraft Corporation, Lock Haven Division, Lock Haven, Pennsylvania 17745, telephone (707) 748–6711. A copy of the Service Bulletin is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Steve Flanagan, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7407.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment No. 39–3484, AD 79–12–02, which currently requires inspection of the elevator stop bolts, a check of elevator surface travel, retorqueing of stop bolt lock nuts, and adjustment and/or repair of elevator system hardware as necessary on certain Piper PA–31 series airplanes. After issuing Amendment 39–3484, the FAA has determined that Piper PA–31–350 series model was inadvertently omitted from the AD. Therefore, the FAA is amending Amendment 39–3484 by adding the PA–31–350 series model aircraft.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39–3484, AD 79–12–02, as follows:

Amend the first paragraph to read as follows:

Piper Aircraft Corporation: Applies to the following Model PA–31 series airplanes, certificated in all categories: PA–31; PA–31–300; PA–31–325, S/N 31–5 through 31–7912049 inclusive; PA–31–350, S/N 31–5001 through 31–7952091 inclusive; PA–31P, S/N 31P–1 and up; PA–31T, S/N 31T–7400002 through 31T–7920060 inclusive; and PA–31T1, S/N 31T–7804001 through 31T–7904031 inclusive.

Amendment No. 39–3484 was effective June 14, 1979.

This amendment is effective July 2, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in East Point, Ga., on June 13, 1979.

George R. La Caille,

Acting Director, Southern Region.

[FR Doc. 79-19684 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-RM-14]

Alteration of Transition Area, Wolf Point, Mont.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment alters the 1,200' transition area at Wolf Point, Montana to provide controlled airspace for aircraft executing the new NDB–A standard instrument approach procedure to Wolf Point International Airport and for holding aircraft and additional controlled airspace for air traffic control purposes. There will be no change to the 700' transition area.

EFFECTIVE DATE: 0901 G.m.t., October 4, 1979.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM–500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

SUPPLEMENTARY INFORMATION:

History

On April 30, 1979, the FAA published for comment a Notice of Proposed Rulemaking (NPRM) to alter the 1,200' transition area at Wolf Point, Montana (44 FR 25241). No objections were received in response to this Notice.

Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (FAR's) amends the 1,200' transition area at Wolf Point, Montana. This action is necessary to provide controlled airspace for aircraft executing the new NDB–A standard instrument approach procedure to Wolf Point International Airport and for holding aircraft and additional controlled airspace for air traffic control purposes. This amendment does not affect the existing 700' transition area at Wolf Point, Montana.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., October 4, 1979, as follows:

By amending Subpart G, § 71.181, by designating the following 1,200' transition area:

Wolf Point, Mont.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wolf Point, Montana NDB (latitude 48°06'16" N., longitude 105°36'05" W.); and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 47°50'00" N., 105°00'00" W., to 47°50'00" N., 106°00'00" W., to 48°20'00" N., 106°00'00" W., to 48°20'00" N., 105°00'00" W., to the point of beginning.

(Sec. 307(a) Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69.)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colo., on June 15, 1979.

M. M. Martin,

Director, Rocky Mountain Region.

[FR Doc. 79–19685 Filed 6–22–79; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 159

[T.D. 79–158]

Countervailing Duties—Certain Fasteners From Japan; Correction

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Correction of final countervailing duty determination.

SUMMARY: This document corrects inadvertent errors in a final countervailing duty determination for certain fasteners from Japan (FR Doc. 79–27278) that appears on page 31972 of the **Federal Register** of June 4, 1979 (44 FR 31972).

FOR FURTHER INFORMATION CONTACT: David Chapman, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: On June 4, 1979, a final countervailing duty determination with respect to certain fasteners from Japan was published in the **Federal Register** (44 FR 31972). That notice contained two inadvertent errors which are hereby corrected as set forth below. Following the heading "ACTION", the phrase "and Suspension of Liquidation" is hereby deleted. Following the heading "Supplementary Information", line 13 of paragraph 3 of column 3 of page 31972 is hereby corrected to read as follows: "646.49, 646.51, 646.53, 646.58".

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101–5, May 16, 1979, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

Robert H. Mundheim,

General Counsel of the Treasury.

June 13, 1979.

[FR Doc. 79–19630 Filed 6–22–79; 8:45 am]

BILLING CODE 4810–22–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 888

Enlistment in the U.S. Air Force

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final Rule.

SUMMARY: This rule is revised to include a new preservice drug abuse policy and a "Certification of Child Care Arrangements." It updates enlistment procedures for oversea applicants, to simplify instructions for oversea personnel offices to enlist applicants, and updates references and addresses.

EFFECTIVE DATE: November 10, 1978.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Jackson, Hq Air Force Military Personnel Center (MPCMR) Randolph Air Force Base, Texas 78148 (512–625–2102).

SUPPLEMENTARY INFORMATION: Part 888 is revised to include a new preservice drug abuse policy which revises the enlistment marijuana criteria (6 months abstinence required, versus previous number of times used) and deletes references to casual supplier. A "Certification of Child Care Arrangements" has been added for single parents to insure adequate child care by designated personnel during the parents basic military or technical training. Under enlistment options, revises six-year enlistment to specify that enlistees are promoted to the grade of E–2 on completion of basic training, and E–3 on completion of six months time in grade unless they render themselves ineligible for promotion. Revises rule governing applicants whose last period of service was in officer status to require nonregular officers on active duty to submit application to the officers' parent major command or separate operating agency Director or Deputy Director of Personnel for review and endorsement. Prequalification of

applicant is revised to add a Physical Standards List Reference Guide. Enlistment procedures for oversea applicants are updated. Additionally, some Air Force forms were revised to conform with changes in enlistment options and procedures, DOD directed enlistment programs and criteria in support of the all volunteer force environment.

This part implements DOD Instructions 1304.2, March 14, 1975; 1145.2, June 23, 1965; DOD Directives 1145.1, September 13, 1967; 1304.11, October 30, 1967 and 1205.14, November 22, 1974.

The revised part will read as follows:

PART 888—ENLISTMENT IN THE U.S. AIR FORCE

Sec.

888.1 Purpose.
888.2 Qualifications for enlistment in the Regular Air Force.
888.3 Regular Air Force Nonprior Service (NPS) programs.
888.4 Regular Air Force Prior Service (PS) and special category enlistment programs.
888.5 Enlistment in the Delayed Enlistment Program (DEP).
888.6 Processing actions for enlistment in the Regular Air Force.
888.7 Preparation of application for enlistment and USAF enlistment agreement documents.
888.8 Enlistment procedures for oversea Nonprior Service (NPS) applicants.
888.9 Minimum mental requirements (USAF).
888.10 Place of enlistment, NPS applicants.
888.11 Grade determination for NPS enlistees.
888.12 Miscellaneous forms and tables.

Authority: 10 U.S.C. 8012 and 10 U.S.C. 511(a).

Note.—Air Force Regulation 33-3, October 14, 1977, including Change 1, January 16, 1978; Change 2, September 29, 1978; and Change 3, November 10, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 888.1 Purpose.

This part prescribes the eligibility requirements and administrative procedures for enlistment in the Regular Air Force and the United States Air Force Reserve (Delayed Enlistment Program). It applies to all enlistment activities. It implements DOD Instructions 1304.2, March 14, 1975, 1145.2, June 23, 1965; DOD Directives 1145.1, September 13, 1967, 1304.11, October 30, 1967, 1205.14, November 22, 1974, and 10 U.S.C. 511(a).

§ 888.2 Qualifications for enlistment in the Regular Air Force.

(a) *Citizenship requirements.* (1) Applicant must be a US citizen, US National, or have a valid INS Form I–151 or I–551, Immigration and Naturalization Service Alien Registration Receipt Card, as evidence of lawful entry into the US or permanent residence, for AD enlistment. Aliens may be enlisted into the Delayed Enlistment Program (DEP) if they have a certified (raised seal) INS Form G–641. A valid INS Form I–151 or I–551 must be presented and registration number checked with INS officials prior to AD enlistment. Do not reproduce any INS form.

(2) An alien spouse or natural child of a member of the Armed Forces of the US or of a civilian employee of the US stationed in an overseas area pursuant to official orders, in possession of a valid INS Form I–151 or I–551 is eligible for enlistment. The INS Form I–151 or I–551 is valid, for reentry purposes, as long as the spouse or natural child is preceding or accompanying the member or employee, or is following to join the member or employee, within 4 months of their return to the US.

(3) The natural child(ren) born abroad when one or both parent(s) are US citizens are eligible for enlistment if the child(ren) can produce a certificate of citizenship issued in the US by the Commissioner of Immigration and Naturalization Service on a Form N–560 or N–561. If applicant cannot produce this form, contact the nearest American Consular Official for determination.

(b) *Physical standards.* (1) Male NPS applicants must meet the physical standards of AR 40–501, Medical Service Standards of Medical Fitness, chapter 2, regardless of examining location. Exception: Weight tables in AFR 160–43 are used instead of those in AR 40–501 for all enlistees entering any component of the US Air Force. USAF Armed Forces Examining and Entrance Station (AFEES) liaison NCOs temporarily disqualify any male applicant whose weight is over AFR 160–43 standards. However, HQ ATC/RS may authorize recruiting group commanders to enlist exceptionally well-qualified applicants who exceed the AFR 160–43 standard but who are within the AR 40–501 standard. Air Force liaison NCOs complete the weight statement on AF Form 3007.

(2) Applicants other than male NPS must meet the physical standards for enlistment in AFR 160–43. (This includes female, prior service and officer training school (OTS) applicants.) The medical officer conducting the examinaiton may accept as valid for enlistment up to a period of one year:

(i) Report of physical examination given at AFEES.

(ii) Report of Armed Forces separation physical.

(iii) Report of physical examination given by a military medical facility.

(3) The only acceptable documents for verification of physical qualifications are SF 88, Report of Medical Examination, and SF 93, Report of Medical History.

(4) Applicants enlisting for any AFSC requiring an electronics aptitude area or the mechanical aptitude area, which requires M–60 or above, must have normal color vision. Normal color vision must be indicated in SF 88, item 64. All enlistees must have minimum "X" factor rating of "3" and at least the specific rating required for GTEP skill shown in § 888.12(a)(1).

(5) If an applicant is found medically disqualified and the medical examiner's opinion is that the examinee is capable of performing worldwide duty without compromising health or safety, a request for medical waiver may be submitted according to AFR 160–43, paragraph 3–5. Forward the report of medical examination and allied medical documents in original and one copy to HQ ATC/SGPAA, Randolph AFB TX 78148, for final action.

(c) *Age requirements.* All applicants, except those specified in § 888.4, must meet the following standards:

AGE REQUIREMENTS FOR ENLISTMENT (USAF)

RULE	A	B	C
	If applicant is	then the minimum age is attainment of the (see note 1)	and the maximum age limit is less than
1	NPS	18th birthday	the 28th birthday.
2	PS		28 (see note 2).

NOTES: 1. Minimum age for enlistment is 17 when Parental/Guardian Consent for Enlistment of a Minor in the US Armed Forces has been properly executed by parents or legal guardians in Section VI, DD Form 1966. Parental consent is not required for a married 17-year-old applicant.

2. Applicants over 35 years of age must have at least 3 months' prior service in the US Air Force. Active duty time in Regular Component when reduced from present age must equal less than 35 and total satisfactory years service (Active and Reserve) must reduce present age to less than 28. Applicant's personal copy of AF Form 526 will be used to determine satisfactory years service. The bottom entry on AF Form 526 will be used to determine satisfactory years service. The bottom entry on AF Form 526 reflects total service (Active and Reserve). Subtract Active service reflected on DD Form 214 to determine only satisfactory Reserve service. Satisfactory Reserve service only accrues in 1 year increments. Months and days do not count for satisfactory service. Example of age Computation:

		Eligible	Ineligible	Ineligible
Current Age	=	45 11 13	45 11 13	45 11 13
TAFMS	=	11 05 13	11 05 13	10 05 13
		34 06 00	34 06 00	35 06 00
Total Res Svc	=	07 00 00	06 00 00	
Adjusted Age	=	27 06 00	28 06 00	

(d) *Mental and educational requirements.* (1) Mental testing:

(i) *Passing Scores.* All applicants must have passing scores as set by § 888.9, and also qualify as outlined in (d)(1)(ii) of this section.

(ii) *Additional Qualifications and Restrictions on Enlistments.* Applicants enlisting for a specific aptitude area or AFSC must have the passing score listed in AFR 35–1 for that aptitude area. In addition, applicants must be able to speak, read, write, and understand the English language well enough to satisfactorily absorb required Air Force military and technical training. A minimum entry qualifying score on the ASVAB usually is valid evidence that the applicant reads and understands English.

(iii) *Testing Guidelines:*

(A) Administer the ASVAB to applicants before the medical examination.

(B) Do not administer the ASVAB to:

(1) Any applicant who is on active duty.

(2) A HS student, unless he or she is scheduled to graduate during the current school year, or is tested under the HS Testing Program.

(iv) Retesting:

(A) Retests with ASVAB 6 or 7 may be made 6 months after the initial test with ASVAB 5, 6, or 7. Exceptions may be made (no earlier than 30 calendar days after the initial test) when the recruiting commander who is a major or above, personally determines that the initial test scores may not reflect the true capability of an applicant. However, additional retests cannot be authorized until 6 months after the latest retest accomplished by AFEES.

(B) Only the scores on the latest test are valid for enlistment.

(2) Minimum educational requirements for enlistment. Refer to § 888.9 for mental requirements and educational level.

(i) State certification is required for enlistment as a HS graduate equivalent.

(ii) Applicants with a certificate of proficiency issued by the California State Board of Education are considered HS graduates.

(iii) HS diplomas issued by schools authorized to grant such diplomas in the Virgin Islands, Canal Zone, Guam, and American Samoa should be recognized as valid.

(iv) Applicants educated in schools not in the American Educational System must be evaluated before enlistment. They may submit an application to the Credentials Evaluation Service of the International Education Research Foundation, P.O. Box 24679, Los Angeles CA 90024. Payment of the evaluation fee ($25) is the applicant's responsibility. As an alternative, such applicants may choose to apply for the State-certified GED equivalence.

(e) *Conditions which make applicants ineligible to enlist.* See § 888.12(a)(2) for a summary of conditions that can make an applicant ineligible to enlist in the Regular Air Force or US Air Force Reserve (Delayed Enlistment Program (DEP)).

(f) *Exceptions for obtaining specific authority for enlistment.* The USAF Recruiting Service sends requests for waivers of applicants to enlist to HQ AFMPC/MPCMI, Randolph AFB TX 78148.

(1) General information:

(i) An additional review may be made of those applicants whose eligibility for enlistment is doubtful because of:

(A) Reason for last separation from the Armed Forces, or

(B) Possible moral disqualification.

(ii) When a request for specific authority to enlist an applicant is disapproved, the applicant is then ineligible to enlist. Applicants who require specific authority to enlist must be told that the processing completed to determine eligibility does not obligate the Air Force. They must also be told that they should not stop their present employment or dispose of any personal property.

(iii) Statutory requirements for enlistment cannot be waived.

(2) *Authorization required.* HQ ATC/RS may submit to HQ AFMPC/MPCMI, fully justified requests to enlist an applicant who was:

(i) Separated and charged with time lost under 10 U.S.C. 972.

(ii) Separated with honorable discharge but whose DD Form 214, Report of Separation From Active Duty, or DD Form 215, Correction to DD Form

214, contains an RE code that bars enlistment. Discharge must not have been due to punitive or administrative actions that involve bad character traits or poor duty performance. Recruiting detachments make an evaluation using the whole-person concept, and send a request for waiver on only those applicants who meet all requirements of the NPS or PS programs (age, active service, mental, moral and skills requirements). Defer the physical examination until waiver processing is completed.

(iii) Separated due to incomplete enlistment agreement. Requests for waiver may not be processed until 12 months after date of separation (DOS).

(iv) Separated for hardship reasons. Requests for waiver may not be processed until 12 months after DOS. The burden of furnishing proof that the conditions at the time of discharge have changed is on the applicant. Include the following, in duplicate, with request:

(A) Affidavit or sworn statement of applicant that the hardship or dependency is permanently terminated.

(B) Proof in the form of affidavits or sworn statements that the hardship or dependency condition has ended. These statements may be made by the applicant and other members of the community familiar with the home conditions involved.

(v) Separated with insufficient AFSC skill level for grade held at time of separation. Requests for waiver may be processed if individual has proof of having held an appropriate skill level which was downgraded, or AFSC removed for reasons other than lack of proficiency (change in physical profile, AFSC conversion, or lack of sufficient time to achieve skill in another AFSC before separation).

(vi) Separated under the PALACE CHASE program. Waivers may not be processed until 12 months after date of release from active duty. Waiver for enlistment in the USAFR is not required. Application for waiver from National Guard personnel requires the concurrence of their State Adjutants General.

(3) Authorizations required from HQ ATC/RS. Applicants convicted or judged guilty of an offense are ineligible to enlist without waiver. On request of applicant, the recruiter submits a documented application for waiver to HQ ATC/RS.

(4) Uniform guidelist for typical offenses. See § 888.12(a)(3).

(5) Illegal drug usage:

(i) Enlistment. An applicant is ineligible for enlistment if he or she has:

(A) Used marijuana within the last 6 months, or ever been arrested by the police for marijuana usage, possession, or

(B) Ever used LSD, or

(C) Ever illegally used narcotics or dangerous drugs, or

(D) Illegally been a supplier of any drugs as defined in AFR 30–2, paragraph 4–2.

(ii) Officer training or commissioning programs. An applicant is ineligible for appointment or enlistment for an officer training program if he or she has ever illegally used or been a supplier of marijuana, dangerous drugs, LSD, or narcotics.

(iii) *Waivers.* Specific instructions on granting waivers for preservice drug abuse is in FOR OFFICIAL USE ONLY correspondence provided to procurement commands.

(6) Enlistment of personnel last separated because of existed prior to service physical disability. Applicants previously discharged for failure to meet physical standards at time of enlistment may request an enlistment waiver only if they furnish medical evidence that the physical defect responsible for the separation no longer exists. If the AFEES Medical Officer determines an applicant is physically qualified for enlistment, applicable Recruiting Detachment sends medical examination results and requests evaluation and enlistment approval from HQ ATC/SGPAA, Randolph AFB TX 78148. Evaluation request must include:

(i) Detailed description of physical defect responsible for discharge.

(ii) Occupation since discharge.

(iii) Changes in employment and reasons for change.

(iv) A copy of Veterans Administration medical records, if applicable.

(7) Waiver action by HQ ATC/SGPAA:

(i) If approved, return to USAFRS/RSOPA who obtains an RE code waiver for Regular Air Force applicants from HQ AFMPC/MPCMI, Randolph AFB TX 78148.

(ii) If disapproved, return all documents to sender.

(g) *Applicants with dependents.* Each applicant with dependents must be thoroughly counseled according to instructions on AF Form 3010, Statement of Understanding (Dependency)-United States Air Force. The intent of these programs is to ensure adequate dependent-care arrangements have been made while the sponsor is undergoing training and transition to military life. The transition period is normally considered to include basic training, technical training, and a period at the initial base of assignment of sufficient duration to adjust to the locale and make suitable child-care arrangements. Certification of Child Care Arrangements will be completed as follows:

I hereby certify that I have made arrangements with ———— (name and complete address) ———— to assume the custody and to provide for the care and welfare of my child(ren) during the period I am attending basic military training with the United States Air Force and for such time thereafter that I am attending Air Force specialty school(s).

(signature of applicant)
(signature of person assuming care of child(ren))

The foregoing certificate of Child Care Arrangements was sworn and subscribed to by —— (name of applicant) —— —, and the person assuming child care, —— (name) —, this —— day of ——, 19—.

NOTARY PUBLIC

(h) *Enlistment of former members of the Peace Corps.*

(1) Former members of the Peace Corps will not be assigned to duty in the intelligence field (AFSC 20XXX).

(2) The term "Former members of the Peace Corps" is intended to include former Peace Corps volunteers, volunteer readers, and staff member of the Peace Corps. The term does not include persons who attended Peace Corps training but did not go overseas with the Peace Corps, except that no such person will be assigned duties in an intelligence capacity in any foreign country for which they were trained to serve in the Peace Corps. Waivers to this policy are not possible due to overriding national interest and will not be submitted.

§ 888.3 Regular Air Force nonprior service (NPS) programs.

(a) *Applicability for enlistment.* This section applies to all personnel who wish to apply for enlistment in the Regular Air Force. They must have less than 180 continuous days of active military service.

(b) *Place of enlistment and initial assignment.* See § 888.10.

(c) *Enlistment grade and date of rank.* (1) Enlistment grade. See § 888.11.

(2) *Date of rank.* The date of rank for all NPS enlistees is the date when they enlist in the Regular Air Force.

(d) *Enlistment options.* The Air Force has some enlistment options that are made to meet the desires of the individual and the needs of the Air Force.

(1) *Term of enlistment.* All applicants must enlist for a term of 4 or 6 years.

(2) *Aptitude index (AI) enlistment program.* Applicant may enlist and will be assigned to an Air Force Specialty (AFS) that requires a Mechanical, Administrative, General, Electronic (M, A, G, E) score or a combination of such scores. All applicants who enlist must do so without any promise of a specific AFS. They must be assigned an AFS while in basic military training based on the needs of the Air Force, the individual's aptitude, and preferences.

(3) *Guaranteed training enlistment program (GTEP).* Any qualified applicant may enlist for a skill in § 888.12(a)(1). Under this program, if qualified, they are assured of either formal or on-the-job training in the AFS selected. If unable to successfully complete training through no fault of the enlistee, excluding academic deficiency, the enlistee may complete the term of enlistment in another AFS for which qualified and requirements are available, or will be separated. There is no guarantee of tenure in the AFS, although it is not the intent of the Air Force to change the individual's AFS without valid reason.

(4) *Base of choice enlistment option.* Qualified applicants may be accepted on a 4-year term of enlistment when a requirement exists in the GTEP AFSC selected at one of the bases available under this program.

(i) Quotas are listed by base and controlled by USAFRS/RSS. This program guarantees initial assignment at the initial base of choice.

(ii) This option is available to all enlistees in selected AFSCs as announced by USAFRS/RSS.

(5) *Six-year enlistment program.* Applicants scoring 31 or higher on the mental portion of the ASVAB, and enlisting an AFSC authorized for 6-year enlistments as show in § 888.12(a)(1) may enlist for a 6–year term of enlistment. In return, the enlistees are promoted to the grade of E–2 on completion of basic training and E–3 on completion of 6 months time in grade unless, through misconduct, they make themselves ineligible for promotion.

(6) *Buddy enlistment options.* Qualified applicants of the same sex are permitted to attend basic military training as members of the same training flight. The option is voided if either individual fails to progress in training at the same rate as the other.

(7) Air Force Reserve and Air National Guard applicants must qualify as prescribed in chapter 2. For enlistment processing and assignment procedures, see paragraph 4–5e.

(8) *Air Force Band.* Qualified musicians may enlist for assignment to a US Air Force band, if a successful audition has been completed. Enlistments must not be more than the current Trained Personnel Requirement (TPR) for band members.

(i) All expenses for preenlistment auditioning are paid by the applicant.

(ii) Applicant may volunteer for assignment to a specific Air Force band or any Air Force band, except the US Air Force Band, Bolling AFB DC 20332.

(iii) The band director auditions applicants according to AFR 190–21. If found qualified in the instrumental performance test for the 3-skill level, applicants are processed as outlined below. Applicants for the USAF Band, Bolling AFB DC, must audition at Bolling AFB.

(iv) Processing:

(A) After auditioning the applicant, and finding him or her qualified, the band director prepares original AF Form 485, Application for Enlistment-US Air Force Band, and forwards it to USAFRS/RSOP, Randolph AFB TX 78148.

(B) USAFRS/RSOP completes AF Form 485, section IV, makes and distributes copies as follows:

(*1*) Original to applicant, who must enlist within 210 calendar days of date of approved application.

(*2*) Two copies to the Recruiting Service detachment concerned.

(*3*) One copy to the Band Director.

(*4*) One copy to SAF/OICE, Wash. DC 20330.

(C) On receipt of approved application, the recruiting detachment sends one copy to the recruiter. On enlistment or declination, recruiter completes AF Form 485, section V, and immediately notifies USAFRS/RSOP.

(D) On enlistment, a copy of approved AF Form 485 is attached to AF Form 3007, if applicable.

(v) An applicant enlisted for the band is reported by Air Force Military Training Center (AFMTC) as a by-passed specialist. This exempts applicant from taking the 3-level Specialty Knowledge Test required by AFR 190–21.

§ 888.4 Regular Air Force prior service (PS) and special category enlistment programs.

(a) *Applicability for enlistment.* This section applies to all personnel applying for enlistment in the Regular Air Force who have 180 days or more of continuous active military service.

(b) *Documentary proof.* A PS applicant must provide documentary proof of prior service before enlistment. The DD Form 214 covering the applicant's last period of active service, the latest AF Form 526 reflecting satisfactory years service in the Reserves, and a certified document reflecting TAFMS from HQ ARPC for reservists, State Adjutant General for National Guard, are the documents to be used to determine eligibility. See § 888.12(a)(5).

(c) *Enlistment grade and date of rank.* Except as noted within each category, enlistment grade is specified by § 888.12(a)(7). The date of rank, unless otherwise indicated, is the date of enlistment into the Regular Air Force.

(d) *PS program.* This paragraph applies to the enlistment of former service enlisted personnel, except those covered in (e), (f), (g) and (h) of this section. Enlistment of PS applicants in oversea areas is not authorized.

(1) *Skill determination.* PS applicants must have a Primary Air Force Specialty Code (PAFSC) (shown on DD Form 214/215) that is on the PS required skills list and have the specified TAFMS required for that skill. If applicant is not qualified by these criteria, two options are available:

(i) Enlistment in a second AFSC reflected on applicant's DD Form 214 or 215 if the AFSC is on the PS required skills list, or

(ii) Enlistment to retrain either through technical or on-the-job training into a needed skill.

(2) *Enlistment for a skill shown on the PS Required Skills List.* Once the applicant has been determined to be qualified and has a skill in an applicable year-group shown on the PS required skills list, the recruiter checks with the Accession Control Center for assignment and specific enlistment authorization.

(3) *Enlistment for formal training.* Applicant must:

(i) Not have an AFSC, or job skill, which converts to an AFSC on the PS Required Skills List.

(ii) Meet all prerequisites for airman basic resident course according to AFM 50–5.

(iii) Agree in writing to accept results of retention action if he or she fails to successfully complete the technical training course.

(4) *Enlisting for on-the-job retraining (former Air Force members only).* Applicant may enlist for on-the-job retraining in a category B or C skill if he or she:

(i) Meets TAFMS for skill in which retraining.

(ii) Retrains into a skill shown on the PS Required Skills List.

(iii) Accepts assignment to a unit that has a requirement for the AFSC in which enlisting.

(5) *Enlistment in former AFSC.* A PS applicant qualified to enlist in his or her former AFSC may select a base of assignment from those made available by Recruiting Service. This option also may be taken by an airman attending technical training school in a temporary duty status. If the technical training school is to be attended in a Permanent Change of Station (PCS) status, the airman is not authorized to elect a base of assignment; he or she is in the same status as other students of the same school.

(6) *Advance Travel Allowance.* Each PS enlistee may get an advance of travel funds to first duty station. (Travel at Government expense to a military installation to get funds is not authorized.) Air Force accounting and finance officers (AFOs) make advance travel payments without ID card on presentation of the DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States, and Travel (Enlistment) Orders, if the enlistee has other means of identification.

(7) *Assignment instructions.* Follow procedures furnished by HQ ATC/RS. An applicant enlisted for an oversea assignment goes direct from AFEES to the nearest Air Force installation for oversea processing, and may not take leave until processing has been completed. When early reporting is not authorized, applicant is required to delay enlistment or take advance leave.

(e) *National Guard and Reserve Members of the Armed Forces Not on EAD.*

(1) Do not ask personnel of any Reserve component to enlist in the Regular Air Force. On request, recruiters furnish members with full information concerning enlistment in the Regular Air Force.

(2) Air National Guard (ANG) and Air Force Reserve personnel whose total active service consists of an initial tour of ADT may enlist under the NPS program even though their total active service is more than 6 months. To be eligible for enlistment in the Regular Air Force, ANG or Air Force Reserve members must have served in active Reserve status twice as long as the time spent in basic military training (BMT) and formal training. (**Example:** A member who spent 7 months in BMT and technical training is required to serve at least 14 months in the ANG or Air Force Reserve unit after release from IADT.) This requirement may be waived only if elimination of position, or movement of individual to an area where active participation is not feasible. Requests for waiver must be fully documented. Reserve Forces CBPO sends them to HQ AFRES/DPAA or NGB/DPMA, as applicable, for final action.

(3) The recruiter must inform applicants that airmen are not authorized to hold a Reserve commission or warrant in an Armed Force other than the Air Force. Advise applicants to contact the nearest Air Force Reserve unit to obtain information on procedures for transfers to the Air Force Reserve. Action must be completed before enlistment, as all commissions and warrants are revoked automatically as of the date of enlistment.

(4) DD Form 368, Request for Discharge or Clearance From Reserve Component, is required for all members of the Reserve components unless in Army or Air Force Reserves as nonunit members (those not in a pay status). Recruiters send DD Form 368 to Reserve Unit address provided by applicant. Processing is held in abeyance pending receipt of a positive response from the individual's Reserve component. If clearance is not received within 21 days, the recruiter contacts the Headquarters of the Reserve component. If the applicant is being processed as a nonprior service enlistee, the recruiter will request verification of test scores (AFQT, AQE, ACT, or ASVAB), PAFSC and skill level, Security Investigation information, and TAFMS from the applicant's Reserve unit. Verification letter must be signed by the CBPO Chief or unit commander. After receipt of this data, the recruiter will determine preliminary qualifications and send applicant to AFEES for enlistment physical and mental testing, if necessary. AFEES will use letter from the Reserve unit as source document for data verification. If applicant is medically disqualified for enlistment, the AFEES LNCO will return the DD Form 368 and a copy of the enlistment physical to the Reserve unit.

(5) The following procedures apply to applicants assigned to an active AF Reserve or National Guard unit. Although a nonprior service applicant by definition, enlistment and assignment procedures are similar to that of a prior service applicant.

(i) Enlistment grade. See § 888.11.

(ii) Date of Rank. See § 888.3(c)(2).

(iii) *Term of enlistment.* All applicants are enlisted for 4 years.

(iv) Enlistment will be in applicant's PAFSC and skill level currently possessed in the Reserve unit as long as a requirement exists. Determination of vacancies is made by Recruiting Service Accession Control Center (AAC). If a vacancy does not exist, the applicant is authorized to retrain into a GTEP AFSC offered by the ACC. If retraining is required, individual will retrain the PAFSC possessed while in the Reserve unit as an awarded AFSC. (In no case will skill level be higher than 5.) Retraining is not authorized, if requirements exist in Reserve PAFSC.

(v) *Assignment procedures.* Initial base of assignment is furnished to the LNCO by the ACC after ACC coordination with HQ AFMPC/MPCRA. Assignment may be to an oversea unit, in cases where the applicant has had at least 12 continuous weeks of active duty, or a CONUS unit. Applicants are processed for assignment in the same manner as prior service enlistees. After receipt of assignment instructions from ACC, the LNCO submits Request for Special Orders to AFEES. AFEES will use appropriate prior service special order format as shown in § 888.12(a)(18).

(vi) *Date of enlistment.* Applicants enlisting for Direct Duty Assignments (DDA) are enlisted on date mutually agreed to by the individual, LNCO, and ACC. Ensure allowance for travel time to initial duty assignment. Applicants enlisting for Technical Training are enlisted to allow for travel time in order to arrive at Technical Training Center 5 workdays prior to class start date. Mode of transportation will determine amount of travel time authorized. Advance leave is not authorized in either case (DDA or Technical School).

(f) *National Guard and Reserve members of the Air Force on EAD (including Mobilized Personnel).*

(1) *General.* A reservist of the Air Force who is serving on EAD may request discharge for the purpose of immediate enlistment in the Regular Air Force if he or she is qualified according to this paragraph.

(2) *Qualifications:*

(i) Airman must have served on current EAD tour for 12 months or for a longer period, and must be serving in grade E–3 through E–7.

(ii) Applicant must first be screened and selected for enlistment by special boards appointed by wing or base commander. The decision of the appointing authority is final.

(iii) Applicant must meet TAFMS and Control Air Force Specialty Code (CAFSC) criteria in US Air Force Retraining Advisory.

(A) For airmen (E–5 or below) with less than 3 years' TAFMS, the retraining advisory must reflect a shortage in column A.

(B) For airmen (E–5 or below) with more than 3 years but less than 4 years' TAFMS, retraining advisory must reflect a shortage in column B.

(C) For airmen (E–5 or below) with over 4 years' TAFMS, the retraining advisory must reflect a shortage or balance in the appropriate year group.

(D) Comply with "grade" column in retraining advisory for airmen (E–6 or above). The appropriate column must reflect a shortage or balance.

(iv) Maximum age must be less than 28 when reduced by total active service in the Armed Forces, and total satisfactory years in a reserve component. (Applicant must provide an AF Form 526 to verify satisfactory Reserve years.) § 888.2(c), rule 2 applies.

(3) Primary factors in selection:

(i) Airman's performance to date of consideration.

(ii) Commander's and immediate superior's recommendation for promotion to the next higher grade. When an airman is not recommended for enlistment, the commander and immediate supervisor provide the selection board with a summary of reasons for the recommendation.

(4) Other factors to consider:

(i) Grade and skill level:

(A) Grades E–3 through E–7.

(B) Possession of an awarded AFSC at the 5-skill level (3 when the 5 level does not exist in a particular AFSC) or higher skill level.

(ii) *Aptitudes.* Exhibit a potential for retraining and normal career progression.

(iii) *Education.* See § 888.9.

(iv) *Self-Improvement efforts.* Record of job-related Extension Courses Institute (ECI) courses completed; enrollment in off-duty college courses, Career Development Courses (CDCs); and Air Force Institute of Technology (AFIT) courses completed, etc.

(v) *Training.* Technical school training received, OJT completion, etc.

(vi) Physical condition.

(vii) History of humanitarian or personal problems.

(viii) Other related information which could have a bearing on the selection or nonselection for enlistment.

(5) Place of enlistment and assignment:

(i) Enlist applicant at the CBPO having custody of the airman's records.

(ii) Initial assignment is the same as held by enlistee while on EAD.

(6) CBPO processing:

(i) Process applicant the same as a reenlistee and assure input of Transaction Identification Code (TIC) 478 and update service component.

(A) DD Form 214 must be prepared to release individual from current EAD. Send copy to the appropriate ANG or AFRES headquarters.

(B) Reservists on EAD who have applied for enlistment in the Regular Air Force are not required to have a Career Job Reservation (CJR).

(ii) Complete all actions for enlistment within 15 calendar days of final approval. Schedule enlistment of applicant under this subparagraph far enough before the last day of EAD to make sure that individuals not enlisted arrive home no later than the last day of the contract term of EAD. Place particular emphasis on this in oversea areas. In no case enlist an airman if such enlistment is not effected at least 15 calendar days before date on which term of EAD as a reservist normally would expire.

(iii) Enlisting officers must advise applicant that travel pay and payments for accrued leave are deferred until the new enlistment is completed.

(7) *Grade and date of rank.* Grade and date of rank on enlistment are the same as those held at time of discharge.

(g) *Applicants whose last period of service was in officer status.*

(1) Former Air Force officers may enlist in the Regular Air Force, however, each requires specific authorization from HQ AFMPC/MPCMA.

(i) Regular officers who wish to resign and enlist are processed according to AFR 36–12 and:

(A) Must enlist within 90 days from date of separation.

(B) Are not required to meet the PS Program criteria.

(C) Authorized enlistment grade of sergeant (E–4).

(D) Entitled to date of rank according to AFR 35–54.

(2) Non-Regular officers on AD submit applications to their parent MAJCOM or Separate Operating Agency (SOA), Director or Deputy Director of Personnel for review and endorsement. Endorsed applications should be received by HQ AFMPC no later than 30 calendar days before projected date of separation. Application from officers separated from AD are sent directly to HQ AFMPC/MPCMA, Randolph AFB TX 78148. Approval letters of authorization will have grade entitlement included.

(i) To qualify for enlistment they must:

(A) Have been a former enlisted member of the Regular Air Force who last served on AD as a Reserve Officer of the Air Force, or was discharged as an enlisted member to accept a temporary appointment as an officer.

(B) Not have had a break in service of more than 6 months after last date of separation as an officer.

(C) Not be an officer relieved from AD to await appellate review of sentence involving dismissal or dishonorable discharge.

(D) Have been separated with honorabale discharge.

(E) Have approval from The Secretary of the Air Force to enlist if separated with other than honorable discharge.

(ii) Authorized enlistment grade is determined as follows:

(A) Enlisted grade held in the Regular Air Force at time of discharge or separation from last period of enlisted service.

(B) Sergeant (E–4) if not qualified for a higher grade.

(iii) Date of rank is established according to AFR 35–54.

(iv) Applicant is not required to meet the PS program criteria and is processed without regard to age, physical disqualification incurred in line of duty while on active military service, or existing vacancy.

(3) Place of enlistment is any Air Force CBPO with reenlistment processing capability according to AFR 35–16, volume I. Assignment at base of enlistment is not guaranteed unless the applicant has a letter from HQ AFMPC/MPCRA as specified in AFR 39–11, paragraph 3–37.

(4) For terms of enlistment, see AFR 35–16, volume I, table 6–6.

(5) Former Air Force officers ineligible to enlist are those who:

(i) Were discharged with severance pay.

(ii) Were separated or released from EAD for cause by the Secretary of the Air Force or in lieu of such action (including cases initiated under AFR 35–62, 36–2, or 36–3), unless granted a waiver to enlist by the Secretary.

(iii) Were separated with other than an Honorable Discharge Certificate (DD Form 256AF) or released from EAD with entry of other than "Honorable" on DD Form 214, except for applicants covered by (g)(2)(i)(E) of this section.

(iv) Were separated because of failure of selection for permanent promotion during the 3-year probationary period.

(v) Are eligible for retirement in officer status under any provision of law (applicants under (g)(2) of this section and AFR 36–12, paragraph 9c(2), are excluded.

(6) Former active officers from other branches of the Armed Forces are ineligible for enlistment in the Regular Air Force.

(7) Officers in a Reserve component may be considered for enlistment under

the NPS Program providing they have never been on EAD except for training.

(i) Process applicants according to § 888.3 or § 888.4 as appropriate.

(ii) Submit request for determination to HQ AFMPC/MPCMA.

(iii) The recruiter must inform applicant that airmen are not authorized to hold a Reserve commission or warrant in an Armed Force other than the Air Force. Advise applicant to contact the nearest Air Force Reserve unit to obtain information on procedures for transfer to the Air Force Reserve. Action must be completed before enlistment, as all commissions and warrants are revoked automatically as of date of enlistment.

(8) CBPO processing:

(i) Before enlistment, the CBPO contacts HQ AFMPC/MPCMS to give the following information: name, SSAN, CAFSC, gaining personnel accounting symbol (PAS), date of enlistment (DOE), grade, date of rank (DOR), race, sex, term of enlistment (TOE), education level, ethnic group, category of enlistment, marital status, date of birth (DOB), AFQT score group, AFQT percentile, ASVAB scores, (Administrative, Electronic, General, and Mechanical), Airman Evaluation Test Identification (ID), and action officer's name, grade, and telephone number.

(ii) Enlistment is recorded on DD Form 4 with Accession Designation Number (ADN) 006. Send enlistment documents to HQ AFMPC/MPCDOI, Randolph AFB TX 78148, on date of enlistment. Send duplicate copy of DD Form 4 to ARPC, 7300 East First Avenue, Denver CO 80280.

(iii) HQ AFMPC/MPCMS gains enlistee to the strength of the Air Force.

(iv) Classification is accomplished by CBPO according to AFR 35–1, paragraph 5–5b.

(h) *Airmen removed from the temporary disability retired list (TDRL).*

(1) A former airman may enlist as prescribed in § 888.12(a)(8) unless barred by § 888.12(a)(2).

(2) Unless enlisting for immediate retirement according to AFM 35–7, member is allowed to enlist for terms of service per AFR 35–16, depending on age, grade, and length of service. Individuals who are eligible for retirement and who normally would be restricted from enlistment due to age, grade, or length of service, are allowed a minimum 2-year term of enlistment.

(3) Applicants may enlist at any Air Force CBPO by presenting:

(i) Letter from HQ AFMPC/MPCARA authorizing enlistment.

(ii) Special order announcing removal from TDRL and discharge.

(iii) DD Form 214 issued at the time of placement on TDRL.

(4) An airman who meets minimum requirements for voluntary retirement and who has recovered from the physical condition for which placed on TDRL, but who is unfit by reason of a condition incurred while on TDRL or 60 calendar days thereafter, may be enlisted with the understanding that retirement for length of service will be accomplished as soon as practicable. To qualify under this paragraph, discharge and removal from TDRL must have been without severance pay. Voluntary retirement must occur as soon as possible.

(5) Before enlistment, the CBPO must contact HQ AFMPC/MPCMAE to provide the name, SSAN, gaining PAS, DOE, grade, DOR, race, sex, TOE, education level, ethnic group, category of enlistment, marital status, DOB, AFQT score group, AFQT percentile, ASVAB scores (Administrative, Electronic, General, and Mechanical), Airman Evaluation Test ID, and action officer's name, grade, and telephone number.

(i) CBPOs record enlistment on DD Form 4 with ADN 026. Send applicable enlistment documents to HQ AFMPC/MPCDRR, Randolph AFB TX 74818, on date of enlistment.

(ii) HQ AFMPC/MPCMAE gains enlisteee to the strength of the Air Force.

(i) *Restored Air Force prisoners.*

(1) *Policy.* Airmen who have committed infractions warranting administrative or disciplinary action are to be rehabilitated and returned to duty if in each case:

(i) The member is properly motivated for continued service,

(ii) The member is morally fit, and

(iii) Return or restoration to duty will not adversely affect the esprit de corps or maintenance of good order and discipline.

(2) *Explanation of term "Restored Prisoner."* A restored prisoner is a former member of the Air Force discharged from the Air Force with a dishonorable discharge or bad conduct discharge who is permitted to enlist in the Air Force according to policy expressed in (1) above. The authority for such enlistment is limited to commanders exercising general court-martial authority. In some individual cases special instructions are issued by HQ USAF. Approval of restoration by competent authority constitutes a waiver of existing disqualifications for enlistment.

(3) *Enlistment.* Enlist all restored prisoners for terms of 2 years only.

(j) *Enlisting selected applicants for OTS.*

(1) Individuals who have been notified in writing by ATC of selection to attend OTS are processed in most cases the same as regular enlistees.

(2) Applicant with a letter of selection may be enlisted if not disqualified by conditions which occurred or were discovered after selection.

(3) An official copy of the college transcript must be turned in on arrival at Lackland AFB, TX.

(4) ATC issues instructions covering class assignment, reporting date, career field, and travel.

(k) *Selectees for the US Air Force Academy Preparatory School.* Air Reserve Personnel Center (ARPC) notifies Air Force Reserve/CBPO, Regular Air Force, and Air Force Recruiting organization of individuals who have been selected to attend the AF Academy Preparatory School. The following actions are accomplished by the requested organization:

(1) To enlist individual, prepare DD Form 4 according to instructions provided; administer oath of enlistment.

(2) Publish Reserve orders assigning individual as requested by ARPC.

(3) Forward completed documents to HQ ARPC/DPRP, 7300 East First Avenue, Denver CO 80280.

§ 888.5 Enlistment in the delayed enlistment program (DEP).

(a) *To whom this program applies.* The DEP is open to all NPS and OTS applicants who have been accepted for enlistment in the Regular Air Force, and have been granted approval to enlist with authorization in the form of a job reservation or assignment to an OTS class from the US Air Force Recruiting Service. Applicants must enlist in the US Air Force Reserve for a 6-year period and normally are required to be on EAD within 270 days from the date of enlistment in the US Air Force Reserve. Those who enlist in the Guaranteed Training Enlistee Program (GTEP) may do so within 365 days.

(b) *Enlistment Criteria.* Applicants must have all of the qualifications that are required for enlistment in the Regular Air Force (NPS or OTS) with the following exceptions:

(1) Enlistment in the DEP is authorized for:

(i) NPS applicants who are high school students and are within 270 calendar days of their graduation date. GTEP enlistees may have up to 365 days.

(ii) OTS applicants who are college students and are in their senior year

must enlist within 270 days of their graduation dates.

(2) Enlistment in the DEP is not authorized for:

(i) Members of a Reserve or National Guard component of any branch of the Armed Forces.

(ii) Applicants for enlistment in the PS program.

(iii) Applicants previously discharged from the DEP.

(c) *Category of enlistment.* Enlist applicant in one of the following categories:

(1) Regular DEP and NPS applicants with job reservation, scheduled to enter the Regular Air Force.

(2) OTS—DEP for applicants who have received official notice of selection for OTS.

(d) *Place of enlistment.* Enlistment is authorized only at AFEES.

(e) *Term of enlistment.* All DEP enlistments are for 6 years for subsequent 4- or 6-year AD enlistment.

(1) Applicants who enter AD in the Regular Air Force for 4 years are assigned to the inactive Air Force Reserve following AD separation for an additional 2 years, minus time spent in the DEP before entry on AD.

(2) Applicants who enter on AD in the Regular Air Force for 6 years have no further Reserve obligation after completing their initial enlistment.

(f) *Grade and date of rank.* Enlist applicants (NPS or OTS) in the grade authorized in § 888.11 with DOR as date of enlistment into DEP.

(g) *Duty status and assignment.*

(1) The enlistee is assigned to the ARPC Obligated Reserve Section (ORS) DEP until he or she enlist in the Regular Air Force, enters on EAD, or is discharged from the DEP.

(2) The enlistee can not be in any Reserve training while in the ORS DEP.

(3) Enlistees do not receive any pay or allowances while in the DEP. They or any of their dependents are not authorized the use of any military facility, such as the hospital, commissary, or exchange.

(4) All Reserve time spent by the enlistee while in the DEP counts for longevity pay increases.

(h) *Responsibilities of U.S. Air Force Recruiting Service (USAFRS).* (1) Maintain strength accounting on all personnel who enlist in the DEP, by category of enlistment and sex.

(2) Maintain enlistment documents until a reservist does enter on EAD, enlists in the Regular Air Force, or is discharged.

(i) *Processing at recruiting offices.*

(1) Comply with all processing procedures that are prescribed in this part and § 888.12(a)(9).

(2) Advise applicants that they are to enter into a legal contract which may only be terminated if they should become disqualified for enlistment, or if they apply and receive approval for discharge according to applicable directives. Obtain guidance and approval from USAFRS/RSOP, Randolph AFB TX 78148, if a DEP enlistee should object or declines either orally or in writing to enter the Regular Air Force or EAD in the USAFR. (If a reservist is disqualified for enlistment in the Regular Air Force, entry on EAD, or has approved request for discharge, send originals of DD Forms 1966 and 4, and AF Form 941, Statement of Understanding (USAF Delayed Enlistment Program) and copies of SFs 88 and 93 to ARPC, Denver CO 80280.

(3) Remind enlistees of their responsibility to inform their recruiter or liaison NCO of any change in status (illness, injury, dependency, martial status) which could affect their continued eligibility for Regular Air Force enlistment.

(j) *Processing at Armed Forces Examining and Entrance Stations (AFEES).* The AFEES processes each applicant according to this part and publishes enlistment and EAD orders as shown in samples of special orders (§ 888.12(a)(18) through § 888.12(a)(26)).

(k) *Processing actions required after enlistment in the DEP.*

(1) USAF recruiting personnel give the reservist a copy of AF Form 941 and make sure that he or she understands its contents. If the original date for enlistment in the Regular Air Force must be changed, cancel current AF Form 941 and issue a new AF Form 941. File the original of the new AF Form 941 and the cancelled AF Form 941 with detachment's Reserve enlistment records. Both AF Forms 941 become annexes and accompany DD Form 4 on Regular Air Force enlistment.

(2) When the reservist enlists in the Regular Air Force:

(i) The U.S. Air Force Recruiting Detachment returns DEP enlistment case file to AFEES for transmittal according to § 888.6(f).

(ii) AFEES discharges reservist from the USAFR. See sample discharge order, § 888.12(a)(18), to be published by AFEES for discharge from DEP and enlistment in Regular Air Force.

(3) § 888.12(a)(10) establishes procedures to discharge DEP members who have not yet entered on EAD when action is warranted.

(4) If the reservist enters on EAD or is directed to comply with EAD orders, the Armed Forces Examining and Entrance Station (AFEES):

(i) Sends applicable documents listed in § 888.12(a)(13) to HQ AFMPC/MPCDOD, Randolph AFB TX 78148, by nonregistered first-class mail.

(ii) Sends applicable records listed in § 888.12(a)(14) to the 3700 Personnel Processing Group/CDCC, Lackland AFB TX 78236, or servicing CBPO by nonregistered first-class mail.

§ 888.6 Processing actions for enlistment in the Regular Air Force.

(a) *Processing procedures.* This chapter explains the procedures for processing and completing actions required for enlistment in the Regular Air Force. When Air Force activities are authorized to enlist applicants, the CBPO (except USAFE CPBOs) is responsible for taking all processing actions prescribed for Recruiting Service personnel and the AFEES, HQ USAF notifies the MAJCOM concerned of any discrepancies in enlistment actions taken by the CBPO.

(b) *Prequalification of applicant.* Use the procedures below to determine whether or not an applicant may be eligible for enlistment. Unless waivers are required, or unique circumstances exist, ATC/RS is responsible for determining the final acceptability of applicants for enlistment in the Regular Air Force and AFRES/RS is responsible for determining eligibility of applicants for the Air Force Reserve.

(1) *Interview.* Thoroughly investigate any facts which may disqualify applicant before continuing processing. Disqualify applicants with obvious physical defects (§ 888.12(a)(11)). Individuals enlisting under the GTEP must meet all mandatory requirements shown in AFR 39–1 for the AFSC selected.

(2) *Proof of documents.* Originals or duly signed and authenticated copies of all documents must be submitted. When the required information has been entered on the enlistment records, these documents are returned to the applicant.

(3) Proof of education. See § 888.2(d).

(4) Proof of citizenship. For applicant born:

(i) In the United States, its territories, or possessions, the document verifying age ((b)(5) of this section) is acceptable proof of citizenship.

(ii) Of American parent or parents outside the United States, citizenship must be proved by one of the following documents:

(A) Certificate of Citizenship or United States Citizenship ID Card (I–

197) issued by the Immigration and Naturalization Service.

(B) Authenticated copy of Report of Birth Abroad of a Citizen of the United States of America (Foreign Service Form 240). This form is referred to as the Consular Report of Birth, and applicant may get a copy from the Authentication Officer, Department of State, Washington DC 20520.

(C) If none of the documents listed in (b) (1) or (2) of this section can be produced, a personal U.S. passport identifying the holder as a citizen may be used to verify citizenship.

(D) An alien must have Form I–151 or I–551, Department of Immigration and Naturalization Service Alien Registration Receipt Card, for AD enlistment.

(5) Proof of Social Security Account Number. Each applicant for enlistment in the U.S. Air Force must have an SSAN card, the only acceptable document for proof of the SSAN. Enter the SSAN, as shown on the SSAN card, on DD Form 1966, item 2. If the applicant does not have a card, refer him or her to the nearest SSA district office to submit IRS Form SS–5, Application for Social Security Number (or Replacement of Lost Card) under "expedited processing procedures." Applicant must have the SSAN card in his or her possession when reporting to AFEES for initial enlistment (DEP or RegAF).

(6) Proof of Age. The only acceptable documents for proof of age are:

(i) Birth certificate, including hospital or delayed birth certificate.

(ii) Statement by State registrar of vital statistics or similar State official.

(iii) DD Form 214, Report of Separation From Active Duty, for PS applicants. Accept date of birth recorded thereon as a verified date.

(iv) DD Form 372, Application for Verification of Birth for Official US Armed Forces Use Only. Only use this form to prove age when the applicant is unable to furnish one of the above documents.

(v) Form I–151.

(vi) United States passports, naturalization papers, certificate of citizenship, and any other official US documents issued by a Government bureau or department and affixed with a raised seal which reflect the applicant's full name and date of birth.

(7) *Identify.* Make sure that the applicant is the same person whose name is recorded on the documents as proof of his or her age; verify name with social security card, driver's license, and so forth. If the names do not correspond, request applicant furnish:

(i) A copy of court order changing name.

(ii) If there is a difference in the name of the individual's social security card and the name to be used for enlistment, a Social Security Form OAAN–7003 must be completed by the individual and presented to the enlisting activity for mailing to the nearest Social Security Administration District Office.

(8) *Enlistees from the DEP.* AFEES or USAFE CBPOs attach DEP documents to Regular Air Force enlistment documents after processing, and send to HQ AFMPC/MPCDRR, Randolph AFB TX 78148, for inclusion in the USAF master personnel record group.

(9) DD Form 369, Police Record Check:

(i) The use of DD Form 369 to obtain a police check as a prerequisite for enlistment is mandatory for all NPS and OTS applicants. **Exception:** Those periods in the applicant's background when they resided in states, cities, or counties where release of information is specifically prohibited by statutes, and where the law enforcement agencies abide by those statutes and refuse to honor requests for police record checks.

(ii) Check applicant's background for at least 5 years or from date of first offense, whichever is the greater period. (For PS applicants consider only period since last separated from active duty.)

(iii) When authorities refuse to honor DD Form 369, rely on the information provided by the applicant on DD Form 1966 in determining applicant's eligibility.

(iv) Applicants whose records will not be released or are sealed or expunged should be advised to fully disclose all past offenses and disposition. Applicants must understand that investigators may have access to records, and that nondisclosure at the time of enlistment could later result in denial of a security clearance or, if the records were in fact "not sealed," disciplinary or administrative actions that could result in separation under other than honorable conditions that could affect future employment opportunities.

(v) Change the parenthetical phrase "(other than minor traffic violations)" to "(including minor traffic violations)." Send DD Form 369 with a self-addressed return envelope to the Chief of Police, Sheriff, or juvenile agency where the applicant resides, has resided, attended school, was employed, and where the offense was committed. This includes all foreign countries where applicants have lived for 6 months or more.

(vi) When law enforcement agencies will not furnish the required information, annotate interview record accordingly and comply with (b)(9)(iii) of this section.

(vii) When a reply is not received from a law enforcement agency in 21 calendar days, indicate this in interview record and comply with (b)(9)(iii) of this section.

(viii) When admitted offenses require specific authority to enlist and a DD Form 369 cannot be obtained, make every effort to verify applicant's status through other sources (juvenile or court records, and so forth). If not successful, process request for waiver based on data revealed by applicant.

(ix) If applicant reveals possible disqualifying offense(s), eligibility must be determined (that is, qualified or waiver obtained) before any further processing of ASVAB, physical, travel, meals, or lodging at Air Force expense is accomplished. Serious offenses admitted by an applicant are disqualifying offenses confirmed by law enforcement agencies. They must be thoroughly investigated and a waiver obtained, if required, before applicant's eligibility can be confirmed.

(x) If applicant is disqualified by data obtained through police check, the recruiter records the Personnel Accounting Symbol (PAS) and destroys DD Forms 369 immediately.

(xi) If applicant is qualified at the AFEES, keep DD Form 369 in the enlistment case file pending enlistment. After entry on AD, DD Form 369 is filed at the AFEES. Destroy according to AFM 12–50. Destroy forms immediately for applicants who are found mentally or physically disqualified.

(xii) DD Form 370, Request for Report From (Employer), (School), (Personal Reference), may be used for all waiver actions requiring references. Submit at least three references with waiver request, one of which, if possible, should be from the appropriate law enforcement agency, court, juvenile or probation office, if applicant was confined, paroled, placed on probation, or supervision.

(10) *Sealed juvenile record.* Applicants may deny having ever been convicted of a juvenile offense. If the offense record has been sealed, applicants must understand that investigators may have access to records even though "sealed" by civil courts. All applicants should be advised that although not subject to puntitive action based on denial of sealed record, they may later be discharged for the convenience of the Government if the record becomes known to the Air Force. If a sealed record becomes known to the Air Force, it may also be considered in

granting or denying a security clearance or awarding specific AFSCs.

(11) *Unsealed juvenile record.* Applicants should be advised that offense and disposition records that have not been sealed should be fully disclosed. Nondisclosure of unsealed records could later result in denial of a security clearance, or disciplinary or administrative action that could result in separation under other than honorable conditions.

(12) *Mental screening tests.* The primary mental or aptitude test is the ASVAB. The recruiter should use the Enlistment Screening Test (EST) to screen out applicants who might not be able to successfully complete the ASVAB. Retesting on alternate versions of the EST after 30 calendar days is authorized; however, not more than two retests may be given in a 12-month period.

(c) *Processing of qualified applicant.* After the applicant has been found preliminary qualified, the recruiter will prepare the following forms and forward all documents listed in § 888.12(a)(11) to enlistment activity for further processing. Depending on local procedures, applicants may hand-carry records to enlistment activity. See § 888.7, § 888.12(a)(27), § 888.12(a)(28) and § 888.12(a)(29), for instructions to complete forms.

(1) DD Form 1966, Application for enlistment—Armed Forces of the United States.

(2) AF Form 3006, Enlistment Agreement (Prior Service)—United States Air Force, or AF Form 3007, Enlistment Agreement (nonprior Service)—United States Air Force, as appropriate. Attach letters of specific authorization required for enlistment or grade entitlements to the agreement form.

(3) Complete AF Form 2030, USAF Drug Abuse Certificate (Enlistment Only), and AF Form 2031, Drug Abuse Circumstances, when individual evaluation is requested on AF Form 2030. Prepare originals only.

(i) Thoroughly discuss these forms with the applicant, including the meaning of the terms used (see AFR 30–2). Ensure that the applicant understands that willfully false and misleading statements, as well as omission of essential facts, on AF Form 2030 may be the basis for administrative separation or punitive action after entry in the Air Force.

(ii) Applicants must initial all appropriate certification blocks and sign AF Form 2030. If an applicant refuses to sign the form, tactfully advise that this refusal will bar enlistment.

(iii) If an applicant refuses to sign AF Form 2030 based on the grounds of never having used marijuana, line out the words "within the last six months" and have the applicant initial the appropriate blocks and sign the modified forms.

(iv) If an applicant cannot initial the first certification block on AF Form 2030 because he or she has been arrested for possession or use of marijuana, line out the word "never" (if appropriate also change the first part of the statement as outlined above) and have the applicant initial the appropriate blocks and sign the modified form.

(v) Recruiting personnel must make sure that the applicant fully understands the content and meaning of the modified statement. Also, they must advise the applicant that if he or she admits to or is found to have used marijuana within the mandatory abstinence period, the applicant is subject to review for fraudulent enlistment and could receive an undesirable discharge.

(vi) If the applicant requests an individual evaluation, the use of AF Form 2031 is required.

(vii) Applicant is required to complete AF Forms 2030 and 2031 before enlistment in the DEP. The Recertification Certificate on the reverse of AF Form 2030 must be completed no earlier than 7 calendar days before enlistment in the Regular Air Force. After enlistment, the AF Form 2030 is filed in the unit personnel record group until the airman reenlists or is discharged.

(viii) AF Form 2031 is destroyed after completion of screening by the waiver authority.

(4) AF Form 3010, Statement of Understanding (Dependency). All applicants who are married or have dependents must certify their understanding of Air Force policy and procedures by completing AF Form 3010. Complete with typewriter or pen according to § 888.7.

(d) *Preenlistment security investigation.* (1) A National Agency Check (NAC) must be initiated by AFEES at time of enlistment on PS applicants who have had a break in service of more than 1 year.

(i) Complete original and one copy of DD Form 1584, Department of Defense National Agency Check Request, and original only of FB Form 258, FBI Fingerprint Card, according to instructions in AFR 205–32. In the "Return Results To" block on DD Form 1584, enter:

(A) The address of the gaining base Chief, Security Police, if the individual will not be attending a technical training course or the technical training course is less than 20 weeks, or

(B) The address of the Chief, Security Policy, of the base where the individual will be attending a technical training course of 20 weeks or longer duration.

(ii) On completion of NAC processing, AFEES sends original DD Form 1584 with FD Form 258 attached to Personnel Investigation Center, Defense Investigative Service, P.O. Box 1083, Baltimore MD 21203.

(2) AFEES initiates ENTNAC request on all NPS applicants when a scheduled date of enlistment is established.

(i) Complete original and two copies of DD Form 1584 and original only of DD Form 369. In the "Return Results To" block of DD Form 1584, enter: 3507 Airman Classification Squadron, (DPKS 1), Lackland AFB TX 78236.

(ii) On completion of ENTNAC processing, AFEES sends original DD Form 1584, with DD Form 369 attached, to Personnel Investigation Center, Defense Investigative Service, P.O. Box 1083, Baltimore MD 21203.

(iii) Send copy of DD Form 1584 to AFMTC, Lackland AFB TX 78236, according to paragraph (f) of this section. EXCEPTION: When an individual becomes disqualified for enlistment or does not enlist, indicate reason in the "Return Results To" Block on the third copy of DD Form 1584 and send to 3507 Airman Classification Squadron, (DPKS 1), Lackland AFB TX 78236. For example: "can not enlist—morally disqualified," "can not enlist—medically disqualified," "can not enlist—declined," "can not enlist—hardship."

(3) The commander, 3507 Airman Classification Squadron, Lackland AFB TX, reviews results and refers questionable cases to USAFRS/RSL, Randolph AFB TX 78148, for Regular Air Force personnel and to HQ AFRES/RS, Robins AFB GA 31098, for Air Force Reserve personnel, for further action.

(4) Send tracers on pending NACs or ENTNACs, as outlined in AFR 205–32, attachment 6 to Personnel Investigation Center/DO 840, Defense Investigative Service, P.O. Box 1211, Baltimore MD 21203.

(5) Applicants enlisting under the provisions of § 888.4(e)(5). The recruiter sends the security information, as furnished by the Reserve unit, to the AFEES for use as follows:

(i) If a NAC/ENTNAC has been completed within the last year, further processing is not required.

(ii) If a NAC/ENTNAC has not been completed or was completed over 1 year ago, comply with instructions in (d)(1)(i) and (ii) of this section.

(e) *Processing at AFEES or other enlistment activity.* This subparagraph explains the processing actions to be accomplished.

(1) *Review of documents.* The AFEES Air Force liaison NCO must thoroughly review DD Form 1966 and USAF enlistment agreement documents to ensure accuracy, completeness, and legibility.

(2) *Responsibility of enlisting activity.* Process applicants according to this regulation and, accomplish the following:

(i) Prepare and complete for each enlistee:

Form	Prepare IAW
DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States	Atch 6.
DD Form 4c, Enlistment or Reenlistment Agreement—(Continuation Sheet)	Atch 7.
DD Form 93, Record of Emergency Data	AFR 35–38.
SF 88, Report of Medical Examination (see note 1)	AR 40–501 or AFR 160–43.
SF 93, Report of Medical History (see note 1)	AR 40–501 or AFR 160–43
VA 29–8286, Servicemen's Group Life Insurance Election (see note 2).	
DD Form 2057, Contributory Educational Assistance Program—Statement of Understanding (see note 3).	

NOTES

1. Prepare an extra copy of SFs 88 and 93 for an enlistee for the USAF Band and for PS personnel placed in a TDY status to a technical school.
2. Prepare if enlistee has an unusual family relationship and prefers to designate a beneficiary at time of enlistment.
3. Both applicant and witness complete part I as indicated. Part II is completed at BMT.

(ii) Information to applicant. Before applicant signs the DD Form 4 and takes the oath of enlistment, the enlisting officer or designated representative must explain Article 83, Uniform Code of Military Justice, stressing:

(A) The importance of making true statements and the penalties involved for giving erroneous, false, or misleading information.

(B) That personal data and fingerprints are checked with law enforcement agencies.

(C) That concealment of a criminal record may result in trial by court-martial for fraudulent enlistment or dismissal from the service with less than an honorable discharge.

(D) That disclosure of information that would bar enlistment before taking the oath of enlistment will result only in rejection of the applicant with no additional punitive action.

(iii) Review of enlistment forms. The SSAN must be verified by SSAN card at time of enlistment (Delayed Enlistment Program (DEP) or Regular Air Force). Make sure that all entries on enlistment forms are accurate and satisfactory to all concerned before obtaining any signatures. The applicant and enlisting officer must initial all corrections and erasures on DD Form 4 before applicant takes the oath of enlistment.

(iv) Oath of enlistment. Administer the oath in a dignified manner in appropriate surroundings. Display the US flag near the commissioned officer administering the oath.

(v) After enlistment. After applicant takes the oath of enlistment, the enlisting officer must:

(A) Explain Articles 85 and 86, Uniform Code of Military Justice. (May be performed by a designated representative.)

(B) Make sure that the enlistee signs DD Form 4, items 18 and 22. Item 20 is witnessed by USAF AFEES liaison NCO.

(C) Sign DD Form 4, item 25 (or 30 for ANG enlistee). If DD Form 4c is applicable, applicant signs items 32 and 37, and the enlisting officer completes item 39 and signs in item 40.

(D) Destroy DD Form 4, page extract, 1a (Selective Service copy).

(vi) Preparation and distribution of enlistment orders. Prepare all enlistment orders by using the applicable samples shown in § 888.12(a)(18). The following additional instructions apply:

(A) HQ ATC/RS must furnish the fund citation for each fiscal year.

(B) For all enlistees except NPS, the US Air Force Recruiting Service must furnish a request for orders for each enlistee.

(C) Distribute the Air Force enlistment orders as follows:

Copies provided to—	PS	NPS	OTS	Other
Individual	10	1	3	3.
Duplicate Record	6	2	6	2.
Recruiting Det	2	2	2	As needed.
Recruiting Group	2	0	2	As needed.
USAFRS/RSOP Randolph AFB TX 78148	1	0	0	As needed.
Unit of Assignment	1	1	1	As needed.
Oversea Unit of Assignment	2	NA	NA	As needed.
Servicing CBPO	12	2	2	As needed.
TDY Unit	5	0	0	As needed.
Orders Publishing Agency	As needed	As needed	As needed	As needed.

(f) *Distribution of enlistment documents by enlistment activity.*

(1) Assemble the documents listed in § 888.12(a)(13) for Regular Air Force enlistees in order indicated from top to bottom. Staple them together in upper left corner, and send within 1 workday to HQ AFMPC/MPCDRR, Randolph AFB TX 78148.

Assemble the documents listed in § 888.12(a)(14) and send to AFMTC, Lackland AFB TX 78236, or the servicing CBPO. Send triplicate copy of DD Forms 4, 4c, and 1966 with all annex(es) to Air Force Recruiting AFEES liaison office, and quadruplicate copies to enlistee.

(2) Place records listed in § 888.12(a)(14) in a sealed envelope for disposition as follows:

(i) For NPS. Records on each Regular Air Force enlistee reassigned from the AFEES to Lackland AFB TX are hand-carried. Designate one enlistee to be responsible for delivery of the sealed envelope to the unit of assignment.

(ii) For PS. On date of enlistment, mail records to unit of assignment in preaddressed envelopes furnished by Recruiting Service. Do not mail records to TDY school location. If airman is placed on TDY to technical training school, give him or her a copy of SFs 88 and 93 to hand-carry.

(iii) For OTS Personnel. OTS personnel will hand-carry their individual records, in a sealed envelope, to Building 156, Medina Annex, Lackland AFB TX.

(3) If rejected, return DD Form 1966 to USAF AFEES Liaison NCO.

(g) *Special procedures for members of reserve components.* The responsible recruiting group or the enlisting Air

Force activity takes the following action when DD Form 1966, item 26, indicates the enlistee in the Regular Air Force is still a member of the Reserve.

(1) Reproduce copies of DD Form 4 and forward to:

(i) The Reserve unit shown in DD Form 1966, item 26h.

(ii) ARPC, 7300 East First Avenue, Denver, CO 80280, or to the appropriate State Adjutant General.

(2) Request copy of the discharge order.

(3) Initiate followup action to make sure the enlistee is separated from the Reserve Component.

(h) *General information on processing.*

(1) Applicants who decline or are found not qualified for enlistment:

(i) AF liaison NCO must orally inform applicants not qualified for enlistment due to failure to meet mental or physical qualifications of the reasons and give them an opportunity to ask questions.

(ii) For reservist found physically disqualified, send the complete examination results to the Reserve unit.

(iii) Do not enlist applicant who fails or refuses (after instructions) to complete DD Form 1966, item 39. If document provides reason for belief that this enlistment may not be clearly consistent with the interest of national security, hold the enlistment in abeyance. Return the entire case to the Air Force recruiting detachment commander who forwards DD Form 1966 and any other pertinent data to the Office of Special Investigations (OSI) district servicing the detachment for investigation and development of all information having a bearing on the questionable entry. HQ AFMPC/MPCRPP determines if the enlistment is in the interest of national security and advises the detachment. If reply is favorable, the recruiting detachment attaches pertinent document(s) to the DD Form 1966 and sends applicant to AFEES for enlistment.

(2) *Transportation and subsistence*: (i) Except outside the United States, transportation and subsistence at Government expense are authorized to place of enlistment. If found not qualified or required to await further orders, AF liaison NCO arranges to return applicants at Government expense. Do not return at Government expense applicants who intentionally conceal disqualifications.

(ii) Applicants not previously disqualified may be issued meal and lodging tickets for use at AFEES contract facilities for not more than 3 days, unless extension is authorized by the detachment commander.

(iii) Make travel arrangements for enlistees to depart the enlistment activity for the appropriate Air Force base on date of enlistment, except when transportation is not available. Schedule arrival at destination between 0800 and 2200 hours.

(iv) Make routing arrangements according to AFM 75–2 or AFR 75–25. Make accommodations according to AFR 75–25.

(v) Enlistees ordered to a training center for basic training are authorized travel according to Joint Travel Regulations (JTR), volume I. Enlistees assigned to a first-duty station, other than for BMT and OTS are authorized travel and transportation allowances according to JTR, volume I. Normally lower grade airmen enlisting with less than 2 years' service will not be authorized transportation for dependents and movement of household goods at Government expense. Each individual must pay dependents' expenses. Refer to JTR where appropriate.

(i) *Assignment of accession designation numbers (ADNS).*

(1) Definition of Enlistment Options for ADN Assignments. See § 888.12(a)(15).

(2) ADNS to be assigned enlistees. See § 888.12(a)(16).

§ 888.7 Preparation of application for enlistment and USAF enlistment agreement documents.

(a) *Preparation of documents.* (1) This chapter prescribes preparation of the documents listed below. Only the entries prescribed herein or otherwise directed are authorized. Submit request for inclusion of other material to HQ AFMPC/MPCMR, Randolph AFB TX 78148.

(i) DD Form 1966, Application for Enlistment—Armed Forces of the United States.

(ii) AF Form 3006, Enlistment Agreement (Prior Service/Active USAFR/ANG)—United States Air Force.

(iii) AF Form 3007, Enlistment Agreement (Nonprior Service)—United States Air Force.

(iv) AF Form 3009, Change to Enlistment Agreement—Unites States Air Force.

(v) AF Form 3010, Statement of Understanding (Dependency).

(vi) AF Form 883, Privacy Act Statement—U.S. Air Force Application Records.

(2) The enlistment activity prepares above forms except AF Form 883 and AF Form 3010, in four copies. Air Force forms become an annex to DD Form 4 at time of enlistment, and must be prepared in the same number of copies as the DD Form 4. Complete with typewriter (preferably), or print using ballpoint pen with black or blue-black ink. Print firmly to make sure all copies are readable.

(3) Completed forms must not contain erasures, crossouts, or changes of any nature to the applicant's entries. Redo documents requiring changes or corrections to applicant's entries, before enlistment.

(4) Recruiters must inform and counsel each applicant on the following:

(i) Applicants are required to certify that the information given is complete and accurate to the best of their knowledge and belief.

(ii) Information given is subject to investigation by the Air Force, and that the penalty for making false statements could be applicant's discharge from the Air Force under other than honorable conditions.

(iii) The meaning of each entry and statement on DD Form 1966 (except section II), AF Form 2030 and, if applicable, AF Form 2031, AF Form 3006, or AF Form 3007.

(b) *DD Form 1966, Application for enlistment—Armed Forces of the United States.* Complete according to § 888.12(a)(28) and § 888.12(a)(30).

(c) *AF Form 3006, Enlistment agreement (prior service/active USAFR/ANG)—United States Air Force.* This document outlines the terms of the enlistment options granted to PS, Active USAFR/ANG enlistees.

(1) Recruiter explains each option in section II applicable to the enlistee. Enlistees initial in the first block to show their understanding; recruiter or AFEES Liaison NCO initials in the second block to show that the entry has been explained. On the day of applicant's enlistment in the Regular Air Force, the AFEES liaison NCO reviews each applicable entry with the applicant and then initials the remaining block to show he or she has accomplished this responsibility. Particular emphasis is placed on making sure that applicant fully understands paragraphs B, H, and K.

(2) Recruiter and applicant sign at the end of section II, and their names and grades are typed or printed.

(3) Applicant completes section III on the date of enlistment in the Regular Air Force.

(4) AFEES liaison NCO completes section IV on the date of applicant's enlistment in the Regular Air Force.

(d) *AF Form 3007, enlistment agreement (nonprior service)—United States Air Force.* This document must be completed in the following manner:

(1) Recruiter explains each option in section II applicable to the applicant.

(2) Applicant initials each block applicable showing understanding.

(3) Recruiter then initials block "K" indicating entry was explained.

(4) Liaison NCO reviews each entry with applicant on the date of initial enlistment (DEP or Regular Air Force if not in DEP). Both applicant and liaison NCO then initial block "K."

(5) Applicant reviews AF Form 3007 along with other enlistment documents and signs section II. USAF representative signs verification in section II.

(6) The liaison NCO confirms applicant's eligibility and makes final review with the applicant. Applicant and liaison NCO sign sections III and IV, respectively.

(7) Sections III and IV are completed at the time of initial enlistment, whether DEP or Regular Air Force. The completed form becomes a permanent annex to the DD Form 4, and no other entries can be made on it except to void it when a new form is prepared.

(8) For OTS selectees, the AF liaison NCO types the following in section II, paragraph M, remarks. Add continuation sheet, if required. Have applicant initial this block.

(i) For all OTS selectees: "I understand that if I am eliminated from training leading to an AF commission for other than medical or unsuitability reasons, I may elect in writing to complete my 4-year enlistment or to be immediately discharged."

(ii) For rated OTS selectees (in addition to (a)(8)(i) of this section:) "I understand that if selected for flying training, should I become medically disqualified, or should I fail to successfully complete the Flight Screening Program, the needs of the Air Force and the recommendation of OTS will determine if I am allowed to continue in another course of training. I also understand that the needs of the Air Force will determine whether or not I am allowed to remain on active duty in a commissioned status if I fail to complete the required course."

(9) If the enlistee's status changes while in the DEP (for example: change in AFSC/AI; change from 4- to 6-year enlistment), a new AF Form 3007 is required. The AF liaison NCO prepares the new form to show enlistment options effective for applicant's active duty enlistment as follows:

(i) Prepare complete new AF Form 3007 indicating current enlistment status as of date of active duty enlistment. Enter the following statement in block M of the new form: "This form supersedes AF Form 3007, dated ———— (enter the date sections III and IV of the old form were signed, which normally will be DEP enlistment date)."

(ii) After completion of the new AF Form 3007, mark in large letters across the front of the old form—VOID—with the liaison NCO's signature and date below the entry.

(iii) Make appropriate entries in block 31b of DD Form 4c indicating the supersedure. The new form then becomes an additional annex to the DD Form 4. Both AF Forms 3007 are permanent annexes and must accompany the DD Form 4 or 4c on enlistment.

(iv) If options are changed (an enlistee is rebooked) more than once while in the DEP, the only required AF Forms 3007 at time of Regular Air Force enlistment are two; the one completed for DEP and the one completed for Regular Air Force enlistment.

(e) *AF Form 3009, Change to Enlishment Agreement—United States Air Force.* This document is required if, after enlistment, an individual is found to be ineligible for the GTEP AFSC in which enlisted. It is prepared by the CBPO responsible for the individual's field personnel record.

(1) Section I entries. Explain options and alternate skills available to enlistee. Enlistee selects applicable option and makes any other remarks in the space provided.

(2) Section II entries. The approving authority reviews the availability of the AFSC selected, the remarks made by the enlistee, and approves or disapproves the change requested if the new conditions are acceptable.

(3) Disposition of approved documents. Send original to HQ AFMPC/MPCDOD, Randolph AFB TX 78148, for inclusion in individual's master personnel record; file duplicate as part of AF Form 3007 in individual's field personnel record.

(f) *AF Form 3010, Statement of Understanding (Dependency).* This document is used to obtain further certification that personnel with dependents are fully aware of Air Force policies regarding Government quarters, pay and entitlements, assignment considerations, family separation, and entitlements for movement of household goods at Government expense. AF liaison NCO or recruiter prepares original and one copy.

(1) Section I and II entries. Self-explanatory.

(2) The recruiter carefully explains each statement in sections III, IV, V, and VI to applicant. The applicant then reviews each statement and certifies his or her understanding by signing section VII. Recruiter signs in section VIII. These signatures are certification that each statement in items III, IV, V, and VI has been explained to applicant, as well as representing a witnessing signature.

(3) Items IX and X do not require completion unless applicant has no residing spouse.

(4) Applicant conducts final review before enlistment and on date of enlistment, signs in item XI.

(g) *AF Form 883, Privacy Act Statement—US Air Force Application Records.*

(1) It is desirable (not mandatory) that all applicants sign the acknowledgment of receipt of a copy of AF Form 883.

(2) The Air Force representative collecting the initial information required for enlistment or commissioning determination must provide clear instructions to make sure that applicant understands the content of AF Form 883 before signing. AF Form 883 is not a consent form. It merely indicates that the individual has been advised of information and its intended use.

(3) The signed copy is kept with application until case file is forwarded for enlistment or commissioning processing. On enlistment or commissioning, file in individual's Unit Personnel Record Group until individual's active duty status terminates, then destroy. Give a copy to the individual, if individual is being concurrently assigned to the Reserves or National Guard. AF Form 883 remains in Unit Personnel Record Group until termination of status; then is destroyed. If applicant declines or is disqualified for enlistment, the signed copy is returned to the appropriate recruiter to attach to the applicant's personal interview record until destroyed.

§ 888.8 Enlistment procedures for oversea nonprior service (NPS) applicants.

(a) *Procedures for enlistment.* This chapter applies only to CBPOs authorized to enlist NPS applicants overseas where a representative from HQ USAF Recruiting Service is not present. Specific approval must be obtained from USAFRS/RSOP Randolph AFB TX 78148, for each applicant. See § 888.12(a)(1) for authorized AFSC. Use criteria outlined in AFRs 39–1 and 35–1 to determine applicant's eligibility.

(b) *Processing of applicants:*

(1) Determination of Qualifications. Comply with § 888.2 and § 888.3.

(2) Completion of Forms. Comply with § 888.6 and § 888.7.

(3) Enlistment applications. Submit to USAFRS/RSOP and include:

(i) Letter of transmittal requesting enlistment authorization, with a statement certifying that applicant meets the mental, moral and physical prerequisite as outlined in this regulation (§ 888.12(a)(17)). If applicant answers "yes" to any questions on the DD Form 1966, item 37, 39, or 40, they must be fully explained in item 40g or 41 (use appropriate item as indicated on DD Form 1966). If, on review of these items and § 888.12(a)(4), it is found that applicant requires a waiver, include a completed DD Form 369, AF Form 2030 or 2031 (if applicable), at least three character references, and a detailed prepared statement in applicant's own handwriting explaining all offenses listed on the DD Form 1966, item 40g or 41, and circumstances involved. If applicant was on probation, a statement from his or her probation officer or a court order indicating release from probation must be included. Requests for waiver are returned to the CBPO from USAFRS/RSOP either approved or disapproved. If request for waiver is disapproved, applicant is then ineligible for enlistment in the US Air Force.

(ii) Provide current status of each applicant, that is: dependent of active duty member, retired member, US Government employee, student, or other business purposes. Include date due to return to CONUS.

(iii) Submit completed work copy of DD Form 1966 according to § 888.12(a)(28).

(iv) Original and one copy of SFs 88 and 93.

(v) AF Form 2030 and AF Form 2031, if applicable. Refer to (b)(3)(i) of this section and § 888.6(c)(3).

(c) *Enlistment options.*

(1) Enlistment in an aptitude area. Applicants who are interested in this option should show at least three aptitude areas of preference, M, A, G, or E. They should select the aptitude area in which they are best qualified.

(2) Guaranteed Training Enlistee Program. See § 888.3(d). Applicants who choose this option should list three or more AFSCs in order of preference. Applicants who want to enlist under the GTEP option should ask for an assignment which will match their ability.

(3) Six-year enlistment option. See § 888.3(d)(3). Mental Category—IV applicants are not eligible for this option.

(4) All applicants for enlistment must be told:

(i) Of a possible enlistment delay of from 2 to 6 months due to programmed training schedules.

(ii) That if they are enlisting for 871XX career field, they must be auditioned and processed according to § 888.3(d)(7).

(iii) That some technical training courses are subject to discontinuance with changes in location and course lengths. Applicants should not be promised technical school training for any AFSC. Advise GTEP applicants that they will get on-the-job training or technical school training.

(d) *Enlistment approval.* (1) USAFRS/RSOP gives enlistment authorization by letter or message to the oversea CBPO which shows the option approved and date applicant is to be at Lackland AFB TX. Applicant is contacted and a determination must be made that the enlistment desires are satisfied. At that time, CBPO and applicant must complete AF Form 3007. Also, the CBPO must initiate an Entrance National Agency Check (ENTNAC) according to § 888.6(d)(2). Schedule enlistment and transportation to permit the enlistee to arrive at Lackland AFB TX on or before date specified in enlistment approval letter or message. Enlistees enter travel status within 24 hours of enlistment.

(2) If applicant is dissatisfied with enlistment option offered, and oversea CBPO cannot eliminate dissatisfaction, send a routine message (use mail during MINIMIZE) to USAFRS/RSOP, Randolph AFB TX, identifying authorization and requesting cancellation of enlistment reservation. Once this action has been taken, a new application must be submitted.

(e) *Reverification of enlistment eligibility before enlistment.*

(1) Base medical sections do physical rechecks within the 72 hours before enlistment for all applicants. Special emphasis must be placed on weight standards to make sure that individuals are not overweight at time of enlistment.

(2) Review and recertify enlistment forms.

(f) *Confirming enlistment.* On completion of enlistment action, CBPO sends message to USAFRS/RSOP, Randolph AFB TX, and gives enlistee's name, SSAN, date of enlistment, enlistment approval authority, and estimated arrival time at AFMPC. Send copy of DD Form 4, DD Form 1966 (pages 1 through 6), and AF Form 3007 on DOE to USAFRS/RSOP, Randolph AFB TX 78148.

§ 888.9 **Minimum mental requirements (USAF).**

RULE	A	B	C	D
	If enlistment category is	then minimum enlistment aptitude score required is	and mental score required is	and minimum education required is
1	NPS	composite 170 plus G–45 plus 40 in enlistment aptitude area	65–100	HS.
2				nonHS.
3			21–64	HS.
4			21–99	HS Senior (see note).
5	PS	minimum G–45 plus qualifying score for enlistment AFSC	31–100	HS.

NOTE: May enlist in the DEP, however, rule 1, 2, or 3 applies for active duty enlistments.

BILLING CODE 3910-01-M

§ 888.10 Place of enlistment, NPS applicants.

RULE	A	B	C
	If applicant is	and wishes to enlist	then place of enlistment is
1	a US citizen	in the United States or Puerto Rico	the AFEES through USAF Recruiting Service.
2		in the Canal Zone or Guam (see note 1)	the CBPO Albrook AFB CZ or Anderson AFB GU.
3		in other oversea areas (see notes 1 and 2)	the CBPO when no Recruiting Service facilities are available (applicant NOT authorized travel to point of enlistment at Government expense).
4	an alien	outside the continental US	applicant is ineligible to enlist.

NOTES: 1. Process applicants according to chapter 8.
2. Applicant must be without concurrent status as a national of the country where the enlistment occurs, provided also that the enlistment does not conflict with the law of such country or with any intergovernmental agreement between the US and such country.

§ 888.11 Grade determination for NPS enlistees.

RULE	A	B
	If applicant	then grade authorized is
1	was credited with over 90 days' active duty service and last separated in pay grade E–2 or higher	E–2 (see note 1).
2	possesses Billy Mitchell Award, or letter from CAP-USAF/TTHE, Maxwell AFB AL, certifying successful completion of requirements for the award	
3	has completed 2 or more years of college ROTC and possesses a letter of recommendation from the Professor of the appropriate Army, Navy, or Air Force ROTC unit	
4	has satisfactorily completed the entire HS Junior ROTC Program (3 years or more), is a HS graduate, and presents official certificate of completion issued by the Armed Force conducting the program	
5	is a Service Academy ex-cadet with over 90 days' service (see note 2)	
6	is none of the above	E–1.

NOTES: 1. Documents presented after completion of basic training may not be used as a basis for changing the authorized enlistment grade except through application to the Air Force Board of Correction of Military Records.
2. Forward copy of DD Form 214 and statement from individual regarding reason for disenrollment to HQ AFMPC/MPCMAI, Randolph AFB TX 78148, for enlistment authorization.

BILLING CODE 3910-01-C

§ 888.12 Miscellaneous forms and tables.

(a) The following forms and tables are part of the original document and can be obtained by writing to the Chief, Central Base Administration of the nearest Air Force installation and requesting a copy of AFR 33-3:

(1) Authorized specialties for guaranteed training enlistee program (GTEP).

(2) Conditions which make applicants ineligible to enlist.

(3) Uniform guidelist for typical offenses.

(4) Processing applicants with moral disqualifications.

(5) Verification of previous military service.

(6) Acceptability of applicants with previous military service.

(7) Grade determination for PS enlistees (USAF).

(8) Enlistment of airmen removed from TDRL.

(9) Documents forwarded to AFEES.

(10) Separation other than to enlist in the Regular Air Force.

(11) Physical standards list reference guide.

(12) Documents forwarded to enlistment activity (USAF).

(13) Documents forwarded to HQ AFMPC/MPCDOI-2.

(14) Documents forwarded to AFMPC/DPPR, Lackland AFB TX 78236 or if PS to Servicing CBPO.

(15) Definition of enlistment options for ADN assignments.

(16) ADNs to be assigned Regular Air Force enlistees.

(17) Sample transmittal letter for oversea NPS applicants.

(18) Sample special order published by AFEES or USAFE CBPOs for discharge from DEP and enlistment in Regular Air Force.

(19) Sample special order published by AFEES for Reserve enlistment and order to EAD.

(20) Extracts of sample special orders required for enlistment in the Regular Air Force.

(21) Sample, CONUS DDA assignment.

(22) Sample, oversea assignment.

(23) Sample, Prior service, OJT retraining.

(24) Sample, Tech school assignment (for courses less than 20 weeks).

(25) Sample, Tech school assignment (for courses, 20 weeks or more).

(26) Sample Special Order, OTS.

(27) Completion of Department of Defense standardized enlistment forms.

(28) Completion of DD form 1966, Application for Enlistment—Armed Forces of the United States.

(29) Entries and coding instructions for completion of DD Form 1966, Application for Enlistment—Armed Forces of the United States.

(30) Enlistment activity and home of record state codes.

(31) Instructions for completing DD Form 4, Enlistment of Reenlistment Agreement—Armed Forces of the United States.

(32) Instructions for completing DD Form 4c enlistment or reenlistment agreement (continuation sheet).

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-19705 Filed 6-22-79; 8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

41 CFR Parts 3-1, 3-3, 3-4, 3-5, 3-7, 3-11, 3-16, 3-30, 3-50, and 3-56

Contract Clauses, Procurement Forms

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare, is amending 41 CFR Subpart 3-7.50 to consolidate, under that subpart, optional clauses prescribed for use in HEW contracts, to modify Subpart 3-16.50 to delete the optional clauses contained therein, to provide required modifications to Form HEW-315A, and to add necessary alterations to Form HEW-314 when a contract is not for research and development. Also included are instructions relative to the title provisions of Clause 11, Government Property, in Forms HEW-315 and -315A.

EFFECTIVE DATE: This amendment is effective June 25, 1979.

FOR FURTHER INFORMATION CONTACT: David J. Eskenazi, Division of Procurement Policy and Regulations Development, Office of Grants and Procurement, OASMB-OS, Room 539H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201. (202-245-8791)

SUPPLEMENTARY INFORMATION: On February 7, 1979, the proposed rule was published in the **Federal Register** (44 FR 7763) and invited public comments by March 26, 1979. As a result, four responses were received—one from an educational institution, one from an educational association and two from private concerns.

The educational institution and the educational association commented on the clause titled "HEW Contract Financial Report" (§ 3-7.5003). Both recommended that the Form HEW-646, Financial Reports on Individual Project/Contract, be required to be submitted within thirty, rather than fifteen, working days after the close of the reporting period. This recommendation has been accepted and has been incorporated into the clause.

Both organizations recommended that the Department develop additional guidelines which would prescribe and limit the amount of detailed information in financial reports. In this regard, the Department is developing comprehensive guidance on the types and amounts of data, including financial data, required to assure effective contract administration. These guidelines will be published in the **Federal Register** for public comment.

The educational institutions recommended the deletion of paragraph (c) of the clause regarding the submission of data when a desk audit is to be performed or a qualification be included for the amount of data a contracting officer could require for contracts amounting to less than $250,000. The Department does not agree with this comment. While the need to minimize the amount of data submitted by a contractor is recognized, the contracting officer must ensure that the final payment to a contractor is justifiable and correct before it is made. The performance of a desk audit does not relieve the contractor of the responsibility to provide information required by the contracting officer in conjunction with the audit. In addition, desk audits are generally only performed on cost-reimbursable type contracts of less than $100,000 in accordance with § 3-50.502-36.

The educational association objected to the clause titled "Contracts Conditioned Upon the Availability of Funds" (§ 3-7.5006), stating that it could require both the Government and offerors to incur costs for the preparation and negotiation of proposals when funds are not available. The Department does not agree with this comment because the clause is only to be used as specified in § 3-1.354, for operation, maintenance and continuing services which are necessary for normal operation, and for which Congress consistently appropriates funds. It is very unlikely that actions of this type will not ultimately be funded.

One of the private concerns questioned provisions contained in three classes concerning Government Property, (§ 3–7.5007), as follows:

(1) Regarding the clause titled "Abandonment of Government Property" (§ 3–7.5007–1), the concern interpreted provisions of the clause to mean that: (1) Title to property automatically vests with the contractor; (2) the Government pays the cost of moving goods; and (3) the Government pays for salvage or demolition costs (perhaps off-set by salvage or auction costs). The Department agrees that title to abandoned property vests in the contractor. However, the Department disagrees with comments (2) and (3) since the clause specifically terminates all obligations of the Government regarding the abandoned property.

(2) Regarding the clause titled "Government Property Furnished "As Is" (§ 3–7.5007–2), the concern commented that the clause should provide for cases when property was furnished which was not proper for performance, and that the Government should pay any costs incurred by the contractor to improve the property. The Department does not agree with this comment since the property will be furnished in the same condition as when inspected by the contractor pursuant to the solicitation (or returned to such condition at Government expense). The contractor may repair property made available to him at his expense, if the modification will aid his performance, and the change is approved by the contracting officer. However, if prior to award, the contractor and the Department determine that the use of the property "as is" would be beneficial to contract performance, there should be no need to repair or modify the property after award.

(3) Regarding the clause titled "Maintenance of Government Property" (§ 3–7.5004–4), the concern commented that the Government should pay for cost of maintenance of Government property. The Department does not agree with this comment since the provision of Government property is meant to save the contractor the capital expenditure of acquiring property needed for the performance of a contract. It is not meant to relieve the contractor of the responsibility of maintaining any property (be it Government or contractor owned) that is used in the performance of the contract. This is reflected by the clause which specifies that formal maintenance of Government property shall be performed by the contractor and at his expense, except for maintenance required by the contracting officer that is excess of the contractor's normal maintenance obligation.

A recently published final rule for HEW specified that the Limitation of Funds clause (§ 3–7.5008) shall no longer be used in contracts awarded by HEW. Instead, those contracts awarded by HEW which will be, or are proposed to be, incrementally funded shall contain the Limitation of Funds clause in § 1–7.202–3(b). Since the clause in § 3–7.5008 shall no longer be used in contracts awarded by the Department, is being withdrawn and 3–7.5008 is being reserved.

The educational association and one of the private concerns objected to the clause titled "Cost Sharing" (§ 3–7.5010). The private concern recommended that the clause include a specific amount rather than the term "not less than," on the grounds that this term implies that a contractor share "more than" a certain amount or percent of costs.

The Department does not agree with the comment because the intent of including "not less than" in the clause is to limit the costs that the Government will pay under the contract. It does not imply that the contractor must share more than the stated amount or percent.

The educational association recommended that the clause be deleted since it is inappropriate for the academic environment and imposes an unnecessary paperwork burden. The Department does not agree with this comment. Even though cost sharing is not appropriate for use with many procurements, it is appropriate for certain procurements which are jointly sponsored by the Government and the contractor with benefit to the contractor in lieu of full monetary reimbursement of costs.

One private concern objected to the clauses for awards made to or for the benefit of Indiana (§ 3–7.5015) since the clauses do not contain adequate "flow-through" provisions to ensure that they would be applied to second tier and lower subcontracts. The Department agrees with this comment. In order to assure that adequate "flow-through" provisions are contained in each clause which applies to contracts made to or for the benefit of Indians, the clauses are being withdrawn and (§ 3–7.5015) is being reserved. The clauses will be revised and reissued as a proposed rule in the **Federal Register** at a later date.

One private concern objected to the "Insurance-Liability to Third Persons" clause (§ 3–7.5016) on the grounds that the Government should accept complete liability above contractual appropriations, especially where the Government specifies the terms and conditions of the procurement. The Department partially agrees with this comment, since the intent of the clause is to insure a contractor against unusually hazardous risks. However, the Department's liability is limited by the amount of the appropriation from Congress that is available at the time of any loss. Since the clause does not adequately establish the maximum liability that can he assumed by the Government, it is being withdrawn and § 3.7.5016 is being reserved. The clause will be revised and reissued as a proposed rule in the **Federal Register** at a later date.

The educational association recommended that the clause titled "Rights in Data—Special Works" (§ 3–7.5020–1) be deleted since it is not appropriate for educational institutions and universities. The Department does not agree with this comment. The purpose of this clause is to assure that the Goverment receives title to all writings, graphics, recordings, films, and other similar items that are developed under a contract, and has the unencumbered use of all items of this type that are delivered, but not developed, under a contract. Since one of the primary reasons for acquiring items of this type is to use them on associated projects, the educational institute or university that provides these items must be able to assure the ultimate user of the items, the Department, that use of the items will not violate the proprietary rights, copyrights, etc. of others.

One of the private concerns suggested that the "Withholding of Payments" clause (§ 3–7.5022) provide the contractor the opportunity to correct a failure in delivery that would result in the withholding of payments under the contract. As set forth in § 3–57.104–5, the withholding of contract payments is initiated only when the contractor has failed to deliver in accordance with the terms and conditions of the contract. Payments will be withheld if the default is not cured in accordance with the ten-day cure notice sent to the contractor, or if the failure is not determined to be excusable.

Other than those comments which are accepted by the Department, 41 CFR Parts 3–7 and 3–16 are finalized as originally stated in the proposed rule.

The provisions of the amendments are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Dated: June 15, 1979.

Murray N. Weinstein,

Acting Deputy Assistant Secretary for Grants and Procurement.

PART 3-7—CONTRACT CLAUSES

Subpart 3-7.50 is deleted in its entirety and the following is substituted:

Subpart 3-7.50—Special Contract Clauses

Sec.

3-7.5000 Scope of subpart.
3-7.5001 Reusable cylinders and containers.
3-7.5002 Safety and health.
3-7.5003 HEW contract financial report.
3-7.5004 State and local taxes.
3-7.5005 Summarization clauses for contract modifications.
3-7.5006 Contracts conditioned upon the availability of funds.
3-7.5007 Government property clauses.
3-7.5007-1 Abandonment of Government property.
3-7.5007-2 Government property furnished "as is."
3-7.5007-3 Use and charges clause for facilities contracts.
3-7.5007-4 Maintenance clause for facilities contracts.
3-7.5007-5 Liability clause for facilities contracts.
3-7.5007-6 Examination of records clauses.
3-7.5008 [Reserved.]
3-7.5009 Examples of option articles.
3-7.5010 Cost sharing.
3-7.5011 Use of GSA supply sources by contractors performing cost reimbursement contracts.
3-7.5012 Procurements involving human subjects.
3-7.5013 Contracts under the Indian Self Determination Act.
3-7.5014 Negotiated procurement under the Buy Indian Act.
3-7.5015 [Reserved.]
3-7.5016 [Reserved.]
3-7.5017 Method of payment—letter of credit.
3-7.5018 Alternate authorization and consent clause.
3-7.5019 Patent indemnity clause.
3-7.5020 Alternate rights-in-data clauses.
3-7.5020-1 Rights-in-data—special works.
3-7.5020-2 Rights-in-data—existing works.
3-7.5021 Maximum allowable cost for drugs.
3-7.5022 Withholding of contract payments.
3-7.5023 Excusable delays.
3-7.5024 Statement of cost and personnel responsible for report.
3-7.5025 Additional payment provision.

Authority.—5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3-7.50—Special Contract Clauses

§ 3-7.5000 Scope of subpart.

This subpart sets forth clauses primarily for use in contracts for personal property and nonpersonal services where special terms and/or conditions are required to insure satisfactory performance, delivery or protection of the Government's interest.

§ 3-7.5001 Reusable cylinders and containers.

The clause set forth below shall be inserted in contracts when delivery of the items may be in contractor furnished reusable gas cylinders or other containers.

Demurrage Charge Provisions

(a) Reusable gas cylinders or other containers identified below by offerors shall remain the property of the Contractor (except as provided in (c) below), and will be loaned without charge to the government for the period stipulated below by offerors. In computing the period involved, such free loan period shall commence on the first day after date of delivery of each container to the herein specified f.o.b. point(s). Offerors who specify less than days (to be determined by the Contracting Officer in accordance with trade custom), shall have their offers increased for evaluation purposes only by an amount arrived at by multiplying the number of days less than the established free loan period by the daily rental charge. In the event the offeror does not specify a free loan period, such period shall be days (insert the same number of days as the established free loan period). Beginning with the first day after expiration of the free loan period to and including the date the containers are delivered to the Contractor's designated carrier, the Government shall pay the Contractor demurrage (rental) in the amount specified below. No demurrage shall accrue to the Contractor in excess of the herein specified container's replacement value. For each container lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the herein specified replacement value less allocable demurrage paid therefor. Such lost or damaged containers paid for by the Government shall become the property of the Government.

(b) Empty containers will be delivered to the offeror's designated carrier (offeror to identify applicable carrier below) f.o.b. points of original delivery specified in this solicitation/contract.

Offerors Shall Furnish the Following Information, as Applicable, for Containers

Applicable Item No.....
Type and size of Container.....
Quantity.....
Free Loan Period.....
Demurrage Charges Per Day Per Cylinder.....
Replacement Value for Each Container.....
Identification and Location of Offeror's Carrier for Return of Empty Container.....

(c) When the offeror indicates that containers have a replacement value of less than $10, the Government shall have the option to purchase containers and add the cost to the offered price. When purchase option is exercised, offers shall be evaluated accordingly. In this event, the container shall become the property of the Government.

§ 3-7.5002 Safety and health.

The following clause is covered by the policy set forth in Subpart 3-1.52 and is to be used in accordance with the instructions set forth in § 3-1.5203 and § 3-1.5204.

Safety and Health Clause

(a) In order to provide safety controls for protection to the life and health of employees and other persons; for prevention of damage to all property; and for avoidance of work interruptions in the performance of the contract; the Contractor will comply with the following standards:

(Insert the codes, standards, and criteria (including any applicable State and local requirements) prescribed by the Safety Officer). Further, the Contractor shall take or cause to be taken such additional safety measures as the Contracting Officer may determine to be reasonably necessary: *Provided,* That if compliance with such additional safety measures results in a material increase in the cost or time of performance of the contract, an equitable adjustment will be made in accordance with the clause of this contract entitled "Changes."

(b) Prior to commencement of work, the Contractor will submit in writing his plan for complying with the safety and health provisions of this contract, and will meet with the Contracting Officer or his designated representative to discuss and develop a mutual understanding relative to administration of the overall safety program.

(c) During the performance of work under this contract, the Contractor shall comply with all procedures prescribed by the Contracting Officer for the control and safety of persons visiting the job site and will comply with such requirements to prevent accidents as may be prescribed by the Contracting Officer.

(d) The Contractor will maintain an accurate record of, and report to the Contracting Officer in such manner as the Contracting Officer may prescribe, all accidents and incidents resulting in death, traumatic injury, occupational disease, and/or damage to all property incident to work performed under the contract.

(e) The Contracting Officer shall notify (if otherwise, confirm in writing) the Contractor of any noncompliance with the provisions of this clause and corrective action to be taken. After receipt of such notice, the Contractor shall immediately take such corrective action. (Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose). If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop order shall be the subject of claim for extension of time or for costs or damages by the Contractor.

(f) The Contractor shall insert the substance of this clause in each subcontract involving the use of hazardous materials or operations. Compliance with the provisions of this clause by subcontractors will be the responsibility of the Contractor.

§ 3-7.5003 HEW contract financial report.

Financial reports are required on all cost-reimbursement type contracts financed under letter of credit or Departmental Federal Assistance Financing System (DFAFS) methods of payment regardless of dollar value, and all other cost-reimbursement type of contracts of $100,000 or more. The reports should be required not less than quarterly. Financial reports can be required on cost-reimbursement contracts under $100,000 when financed by a method other than letter of credit or DFAFS only if they are considered necessary for effective contract monitoring and administration. When financial and manpower information is to be submitted on Form HEW-646, Financial Report of Individual Project/Contract, the Contracting Officer shall insert the clause set forth below in the RFP and resultant contract. The contracting officer should insert appropriate wording to specify the reporting period agreed to, and should develop paragraph (d).

Contract Financial Report

(a) Financial reports on Form HEW-646, Financial Report of Individual Project/Contract, shall be submitted by the Contractor in accordance with the instructions which accompany the form, in an original and 2 copies, not later than thirty (30) working days after the close of the reporting period. The line entries for subdivisions of work and elements of cost (expenditure categories) to be reported within the total contract shall be stated in paragraph (d) below. Subsequent changes and/or additions in the line entries shall be made in writing.

(b) The first financial report shall cover the period consisting of the (first full calendar month/first full three calendar months) following the date of the contract, in addition to any fractional part of the initial month.

(c) If the final payment of this contract is to be made on the basis of a desk audit, the Contracting Officer may require the Contractor to submit detailed support for costs contained in one or more interim financial reports.

(d) (To be developed by the Contracting Officer.)

§ 3-7.5004 State and local taxes.

In all construction contracts, including vessel repair contracts, to be performed in North Carolina, the following sales and use tax clause must be included:

North Carolina Sales and Use Tax

(a) As used throughout this clause, the term "materials" means building materials, supplies, fixtures, and equipment which become a part of, or annexed to, any building or structure erected, altered, or repaired under this contract.

(b) If this is a fixed-price type contract as defined in the Federal Procurement Regulations, the contract price includes North Carolina sales and use taxes to be paid with respect to materials, notwithstanding any other provision of this contract. If this is a cost-reimbursement type contract as defined in such regulations, any North Carolina sales and use taxes paid by the Contractor with respect to materials shall constitute an allowable cost under this contract.

(c) At the time specified in paragraph (d) of this clause: (1) The Contractor shall furnish the Contracting Officer certified statements setting forth the cost of the materials purchased from each vendor and the amount of North Carolina sales and use taxes paid thereon. In the event the Contractor makes several purchases from the same vendor, such certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the North Carolina sales and use taxes paid thereon. Such statement shall also include the cost of tangible personal property withdrawn from the Contractor's warehouse stock and the amount of North Carolina sales or use tax paid thereon by the Contractor. The Contractor shall furnish such additional information as the Commissioner of Revenue of the State of North Carolina may require to substantiate a refund claim for sales or use taxes.

(2) The Contractor shall obtain and furnish to the Contracting Officer similar certified statements by subcontractors.

(d) The certified statements to be furnished pursuant to paragraph (c) above shall be submitted within 60 days after completion.

(e) The certified statements to be furnished pursuant to paragraph (c) of this clause shall be in the following form:

(Sample Certificate)

I hereby certify that during the period —— —— to ———— (name of Contractor or subcontractor) paid North Carolina sales and use taxes aggregating $—— with respect to building materials, supplies, fixtures, and equipment which have become a part of, or annexed to, a building or structure erected, altered or repaired by (name of Contractor) for the United States of America, and that the vendors from whom the property was purchased, the dates and numbers of the invoices covering the purchases, the total amount of the invoices of each vendor, the North Carolina sales and use taxes paid thereon, and the cost of property withdrawn from warehouse stock and North Carolina sales or use taxes paid thereon are as set forth in the attachments hereto.

(f) In ship repair contracts, change paragraph (a) to read as follows: As used throughout this clause, the term "materials" means materials, supplies, fixtures and equipment which become a part of or are annexed to any vessel altered or repaired under this contract.

§ 3-7.5005 Summarization clauses for contract modifications.

The clauses set forth below shall be used as appropriate in contract modifications as concluding provisions of the modification.

(a) The contract amount is hereby (increased) (decreased) by $——, from $—— to $——, by reason of this modification.

(b) The contract completion date is hereby changed from —— to —— by reason of this modification.

(c) Neither the contract amount nor the contract completion date is changed by reason of this modification.

(d) The contract amount is neither increased nor decreased by reason of this modification.

§ 3-7.5006 Contracts conditioned upon the availability of funds.

Use of the following clause is covered by the policy set forth in § 3-1.354.

Availability of Funds

Funds are not presently available for this procurement. The Government's obligation hereunder is contingent upon the availability of appropriated funds from which payment for the contract can be made.

No legal liability on the part of the Government for payment of any money shall arise unless and until funds are made available to the Contracting Officer for this procurement and notice of such availability, to be confirmed in writing by the Contracting Officer, is given to the Contractor.

Note.—See § 3-1.354(b) for types of contracts which may be entered into conditioned upon availability of funds.

§ 3-7.5007 Government property clauses.

The standard Government property clauses are set forth in the Forms HEW -314, -315, -315A, and -316. Other Government property clauses are prescribed for use under various conditions as set forth in the following paragraphs.

§ 3-7.5007-1 Abandonment of Government property.

The following clause shall be used when deemed advisable by the contracting officer to abandon Government property on the contractor's premises (see § 3-56.508):

Abandonment of Government Property

The Government may abandon any Government property in place, and thereupon all obligations of the Government regarding such abandoned property shall cease, and the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of, the Contractor's plant or any portion thereof which is affected by the abandonment of any Government property.

§ 3-7.5007-2 Government property furnished "as is."

The following clause shall be included in all contracts in which Government property is to be furnished "as is" in accordance with § 3-56.205:

Government Property Furnished "As Is"

(a) The Government makes no warranty whatsoever with respect to Government property furnished "as is" except that the property is in the same condition when placed at the f.o.b. point specified in the solicitation as when inspected by the Contractor pursuant to the solicitation, or, if not inspected by the Contractor, as when last available for inspection under the solicitation.

(b) The Contractor may repair any property made available to him "as is." Such repair will be the Contractor's expense except as otherwise provided in this clause. Such property may be modified at the Contractor's expense, but only with the written permission of the Contracting Officer. Any repair or modification of property furnished "as is" shall not affect the title of such property, which remains vested in the Government.

(c) If there is any change in the condition of Government property furnished "as is" from the time inspected or last available for inspection under the solicitation, and such change will adversely affect the Contractor, the Contractor shall, immediately upon receipt of the property, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of the property, or (2) effect repairs to return the property to its condition when inspected under the solicitation, or if not inspected, when last available for inspection under the solicitation. Upon completion of (1) or (2) above, the Contracting Officer, upon written request of the Contractor, shall equitably adjust any contractual provisions affected by the return, disposition or repair, in accordance with the procedures provided for in the "Changes" clause of this contract. The foregoing provisions for adjustment are exclusive and the Government shall not be liable for any delivery of Government property furnished "as is" in a condition other than that in which it was originally offered.

(d) Except as otherwise provided in this clause, Government property furnished "as is" shall be governed by the "Government Property" clause of this contract.

§ 3-7.5007-3 Use and charges clause for facilities contracts.

The policy on rental of Government Property is set forth in § 3-56.303 and the criteria for rental rates are prescribed in paragraph (b) of this clause. The following clause will be used in all facilities contracts:

Use and Charges

(a) The Contractor may use the facilities without charge in the performance of:

(1) Prime contracts with the Government which specifically authorize use without charge;

(2) Subcontracts held by the Contractor under Government prime contracts or subcontracts of any tier thereunder if the Contracting Officer having cognizance of the prime contract concerned has authorized use without charge by approving a subcontract specifically authorizing such use in writing; and

(3) Other work with respect to which the Contracting Officer has authorized use without charge in writing.

(b) Subject to the payment of a rental therefor, the Contractor may use all or part of the facilities in the performance of work other than that specified in paragraph (a) above, as authorized by the Contracting Officer or as specifically provided in the contract. The amount of rentals to be paid for the right to use the facilities under this paragraph (b) shall be determined in accordance with the following procedure.

(1) The following bases are or shall be established in writing for the rental computation prescribed in subparagraph (2) below in advance of any use of the facilities provided under this contract:

(i) The rental rates for the right to use the property shall be those established by the Contracting Officer in (insert reference) of this contract.

(ii) The acquisition cost of the property shall be the total cost to the Government, as determined by the Contracting Officer, of each item of property, including the cost of transportation and installation, if such costs are borne by the Government. When Government-owned special tooling or accessories are rented with any item of the property, the acquisition cost shall be increased to include the price charged the Government for such tooling or accessories. When any item of property has been modernized by substantial rebuilding at Government expense so as to enhance its original capability, the acquisition cost for that item shall include the increased value, as determined by the Contracting Officer, that such rebuilding and modernization represent. The determination made by the Contracting Officer under this subparagraph shall be final and conclusive on the Contractor.

(iii) The rental period shall be not less than 1 month nor more than 6 months, as may be mutually agreed to.

(iv) For the purpose of computing any credit under subparagraph (2) below the measurement unit for determining the amount of use of the property by the Contractor shall be direct labor hours, sales, hours of use, or any other measurement unit which will result in an equitable apportionment of the rental charge, as may be mutually agreed to.

(2) The Contractor shall compute the amount of rentals to be paid for each rental period, using the bases established pursuant to subparagraph (1) above. The rental rates shall be applied to the acquisition costs of such of the property as may have been authorized for use in advance pursuant to this paragraph (b), for each rental period. The full charge for each rental period, so determined, shall be reduced by a credit in the amount of such rental as would otherwise be properly allocable to work with respect to which the use of the property without charge is authorized in accordance with paragraph (a) above. Such credit shall be computed by multiplying the full rental period by a fraction whose numerator is the amount of use of the property by the Contractor without charge during such period, and whose denominator is the total amount of use of property by the Contractor during such period.

(3) The Contractor shall submit to the Contracting Officer within ninety (90) days after the close of each rental period a written statement of the use made of the property by the Contractor and the rental due the Government hereunder, and shall make available such records and data as are determined by the Contracting Officer to be necessary to verify the information contained in the statement.

(4) If the Contractor fails to submit the statement within the prescribed ninety (90) day period, the Contractor shall be liable for the full rental for the period in question, subject to the exception stated in subparagraph (5) below.

(5) If the Contractor's failure to submit the statement within the prescribed ninety (90) day period arose out of causes beyond the control and without the fault or negligence of the Contractor, the Contracting Officer shall grant the Contractor in writing a reasonable extension of time in which to make such submission.

(c) Unless otherwise directed in writing by the Contracting Officer, the Contractor shall give priority in the use of the property to the performance of contracts and subcontracts of (insert name of Government agency) and shall not undertake any work involving the use of the property which would interfere with the performance of existing Government contracts or subcontracts.

(d) Concurrently with the submission of the written statement prescribed by paragraph (b)(3) above, the Contractor should pay the rental due the Government under this clause by check made payable to the HEW organization providing the property. The name of the HEW organization, to which the check should be made payable, should be indicated in the contract. Each check shall be mailed or delivered to the fiscal office designated in the contract. Receipt and acceptance by the Government of the Contractor's checks pursuant to this paragraph (d) shall constitute an accord and satisfaction of the final amount due the Government hereunder unless the Contractor is notified in writing within one hundred eighty (180) days following such receipt that the amount received is not regarded by the Government as the final amount due.

(e) If the Contractor uses any item of the property without authorization, the Contractor shall be liable for the full monthly rental, without credit, for such item for each month or part thereof in which such unauthorized use occurs. However, the Contracting Officer may waive the Contractor's liability for such unauthorized use if he determines that the Contractor exercised reasonable care to prevent such unauthorized use. In this latter event, the Contractor shall be liable only for the rental that would otherwise be due under this clause. The acceptance of any rental by the Government hereunder shall not be construed as a waiver or relinquishment of any rights it may have against the Contractor growing out of the Contractor's unauthorized use of the

property or any other failure to perform this contract according to its terms.

§ 3-7.5007-4 Maintenance clause for facilities contracts.

The following clause shall be included in all facilities contracts as specified by § 3-56.501.

Maintenance of Government Property

(a) Except as otherwise provided in the contract, the Contractor shall perform normal maintenance of the Government property in accordance with sound industrial practice, including protection, preservation, maintenance, and repair of the property, and with respect to equipment, normal parts replacement.

(b) As soon as practicable after the execution of this contract, the Contractor shall submit to the Contracting Officer in writing a proposed normal maintenance program, including an appropriate maintenance records system, in sufficient detail to show its adequacy as a normal maintenance program. To the extent that the Contracting Officer and the Contractor agree upon such a program, it shall become the normal maintenance obligation of the Contractor, and the Contractor shall carry it out in satisfaction of (1) his normal maintenance obligation under paragraph (a) above, and (2) his obligation to maintain records under paragraph (e) below.

(c) The Contracting Officer may at any time specify, by written notice to the Contractor, a reduction in the work required by the then current normal maintenance obligation of the Contractor. After receipt of such notice, the Contractor shall perform only such work as is specified therein. If any such notice causes a decrease in the cost of performing the normal maintenance obligation, appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by any such decrease.

(d) The Contractor shall perform such maintenance work as may be directed by the Contracting Officer in writing. To the extent that such work is in excess of the Contractor's then current normal maintenance obligation under paragraph (a) through (c) above, such work shall be at Government expense. The Contractor shall notify the Contracting Officer in writing whenever, in accordance with sound industrial practice, the property requires any work in excess of such normal maintenance obligation.

(e) The Contractor shall keep records of the work done on the property in performing his obligations under this clause, and shall afford the Government adequate opportunity to inspect all such records. The Contractor shall deliver such records to the Government or to third persons, if so directed by the Contracting Officer, whenever the property to which they relate are disposed of hereunder.

(f) The Contractor's obligation under this clause shall continue, with respect to each item of property, until such item is removed, abandoned, or otherwise disposed of, as authorized or directed in writing by the Contracting Officer, until the expiration of a period of ninety (90) days after the Contractor, in form satisfactory to the Contracting Officer, has accounted for all of the property covered by any notice of termination of the use of property or until the Contractor has discharged his obligations under this contract with respect to such items, whichever last occurs.

§ 3-7.5007-5 Liability clause for facilities contracts.

The following clause shall be included in all facilities contracts.

Liability for Government Property

(a) The Contractor shall not be liable for any loss of or damage to Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto) which results from:

(1) Willful misconduct, negligence, or lack of good faith on the part of any one of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who have supervision or direction of:

(i) All or substantially all of the Contractor's business; or

(ii) All or substantially all of the Contractor's operations at any one plant or separate location, in which the Government property is installed or located.

(2) A failure, on the part of the Contractor, dueto the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in subparagraph (1) above:

(i) To maintain and administer, in accordance with the clause of the contract entitled "Maintenance", a program for maintenance, repair, protection, and preservation of Government property; or

(ii) To take all reasonable steps to comply with any appropriate written directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of the Government property.

(3) A risk for which the Contractor is otherwise responsible under the express terms of this contract;

(4) A risk expressly required to be insured pursuant to paragraph (c) of this clause, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(5) A risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: *Provided,* That if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exceptions.

(b) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in the latter's possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, provides for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(c) Unless expressly directed in writing by the Contracting Officer, the Contractor shall not include as an element of price or cost under any contract with the Government any amount on account of the cost of insurance (including self-insurance) against any form of loss or damage to Government property. Any insurance required under this clause shall be in such form, in such amounts, for such periods of time, and with such insurers (including the Contractor as self-insurer in appropriate circumstances, if so approved) as the Contracting Officer shall require or approve. Such insurance shall contain provision for thirty (30) days prior written notice to the Contracting Officer of cancellation or material change in the policy coverage on the part of the insurer. A certificate of insurance or a certified copy of each policy of insurance taken out hereunder shall be deposited promptly with said Contracting Officer. The Contractor shall, not less than thirty (30) days prior to the expiration of any insurance required by this contract to be carried by the Contractor on the facilities, deliver to said Contracting Officer a certificate of insurance or a certified copy of each renewal policy to cover the same risks. The insurance shall be in the names of the United States of America, Department of Health, Education, and Welfare, the Contractor, and such other interested parties as the Contracting Officer shall approve, and shall contain a loss payable clause reading substantially as follows:

"Loss, if any, under this policy shall be adjusted with (Contractor) and the proceeds, at the direction of the Government, shall be paid to (Contractor). Proceeds not paid to (Contractor) shall be paid to the (insert the name of the appropriate HEW organization, e.g., OS-HEW, PHS-HEW, and so forth)."

(d) Upon the happening of any loss or destruction of or any damage to the property:

(1) The Contractor shall immediately notify the Contracting Officer thereof, and with the assistance of the Contracting Officer shall take all reasonable steps to protect the property from further damage, separate the damaged and undamaged property, arrange for inspection, and promptly furnish to the Contracting Officer (and in any event within thirty (30) days after the Contractor has determined that loss or destruction of, or damage to the property has occurred) the following:

(i) A list of the lost, destroyed, and damaged property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

(2) The Contractor shall made such repairs, replacements, and renovations of the lost, destroyed, or damaged Government property, or take such other actions as the Contracting Officer may direct in writing.

The Contractor shall perform its obligation under this paragraph (d) at Government expense, except to the extent that the Contractor is responsible for such damage, loss, or destruction under the terms of this clause, and except as any damage, loss, or destruction is compensated by insurance.

(e) The Government is not obligated to replace or repair Government property which has been lost, destroyed, or damaged. In such event, the right of the parties to an equitable adjustment in delivery or performance dates, or price, or both, and in any other contractual condition of the related procurement contracts affected thereby shall be governed by the terms and conditions of such contracts.

(f) Except to the extent of any loss or destruction of or damage to Government property for which the Contractor is relieved of liability, the property shall be returned to the Government, or otherwise disposed of under the terms of this contract in as good condition as when received by the Contractor, as subsequently improved or as it should have been subsequently improved or maintained under the terms of this contract, less ordinary wear and tear.

(g) In the event the Contractor is indemnified, reimbursed, or otherwise compensated (excepting any portion of the proceeds, from use and occupancy or business interruption insurance, which represents indemnity for loss or profit, since the insurance premium for such indemnity is not to be borne directly or indirectly by the Government) for any loss or destruction of, or damage to, Government property, he, to the extent and as directed by the Contracting Officer shall:

(1) Use the proceeds to repair, renovate, or replace the property involved; or

(2) Pay such proceeds to the Government.

(h) The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any loss or destruction of, or damage to, Government property, and upon the request of the Contracting Officer shall furnish to the Government, at Government expense, all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

§ 3-7.5007-6 Examination of records clauses.

The clauses to be included in all facilities contracts relative to the examination of records are referenced in § 3-56.610

§ 3-7.5008 [Reserved.]

§ 3-7.5009 Examples of option articles.

Guidance on the use of option provisions is provided in Subpart 3-1.54, which applies to contracts for supplies and services other than research and development.

(a) Examples of option articles for fixed-price type contracts.

(1) An article substantially as follows may be used where the contract expresses the option quantity as a percentage of the basic contract quantity or as an additional quantity of a specific line item, without separate pricing of the option quantity.

Option for Increased Quantity

The Government may increase the quantity of supplies called for herein by any amount of units up to (specify a quantity or a percentage of the basic quantity) at the unit price specified in the contract. The Contracting Officer may exercise this option by giving written notice of the Government's exercise of the option to the Contractor not later than (specify a date certain or a number of days before the last delivery date under the basic contract). Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract (this sentence may be appropriately modified to reflect agreement of the parties on delivery terms).

(2) An article substantially as follows may be used where the contract identifies the option quantity as a separately priced line item having the same nomenclature as corresponding basic contract line item.

Option for Increased Quantity—Line Item

The Government may increase the quantity of supplies called for herein by requiring the delivery of the numbered line item identified in the Schedule or specified in ARTICLE —— of the Special Provisions as an option item in the quantity and at the price set forth herein. The Contracting Officer may exercise this option by giving written notice of the Government's exercise of such option to the Contractor not later than (specify a date certain or a number of days before the last delivery date under the basic contract). Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract (this sentence may be appropriately modified to reflect agreement of the parties on delivery terms).

(3) An article substantially as follows may be used to provide for continuing performance of the contract beyond its original term.

Option To Extend the Term of the Contract

This contract may be extended for a period of —— (days, months, years) at the option of the Government, by the Contracting Officer giving written notice of the Government's exercise of such option to the Contractor not later than the last day of the term of the contract: *Provided,* That such notice shall have no effect if given less than sixty (60) days prior to the last day of the term of the contract unless the Contracting Officer has given preliminary written notice of an intent to exercise such option at least sixty (60) days prior to the last day of the term of the contract (such preliminary notice shall not be construed as an exercise of the option, and will not bind the Government to exercise the option). If the Government exercises such option, the contract as extended shall be deemed to include this option provision: *Provided, however,* That the total duration of this contract, including the exercise of any options under this clause, shall not exceed —— months. (State terms for pricing of performance under the option, e.g., by inclusion of same price as basic quantity, an escalation provision, definitive option price set forth elsewhere in this contract.)

(b) Examples of option articles for cost-reimbursement contracts.

(1) The following may be used as the article which defines an option, when the contract is a Cost Only Term Form, not involving the use of task orders. This article may be used, with appropriate modifications, when the contract involves payment of fee.

Option To Extend the Term of the Contract

(a) At the option of the Government, this contract may be extended, by the Contracting Officer giving written notice of extension to the Contractor prior to the expiration date of this contract. The option may be exercised only if the Contracting Officer gives preliminary notice to the Contractor, not less than sixty (60) days prior to the last day of the term of this contract, of the Government's intention to exercise the option. Such preliminary notice shall not be construed as an exercise of the option, and will not bind the Government to exercise the option. If the Government exercises such option, the contract as extended shall be deemed to include this option provision: *Provided, however,* That the duration of this contract, including the exercise of any options under this clause shall not exceed ——— months. (State terms for pricing of performance under the option, e.g., by inclusion of the same price as for the basic period, definitive option price set forth elsewhere in this contract, escalation provisions, etc.).

(b) In the event that the contract is extended in accordance with paragraph 1 of this Article, the Contractor shall continue the effort described in ARTICLE I—SCOPE OF WORK, during the —— ( ) month period immediately following that set forth in ARTICLE —PERIOD OF PERFORMANCE. The parties hereto agree that upon issuance of the order exercising

this option, the following modifications will be made to the contract schedule in effect as of the date that such issuance is made:

(1) The period of performance specified in ARTICLE —PERIOD OF PERFORMANCE will be increased by months.

(2) The estimated cost specified in ARTICLE —ESTIMATED COST will be increased by $——.

(2) The following may be used as the article which defines an option, where the contract is a CPFF Completion Form which contains a separate scope of work for the optional effort.

Option for Increased Scope of Work

(a) At the option of the Government, the Scope of work of this contract may be increased to include the work set forth in (Exhibit ——) attached hereto and hereby made a part hereof. This option shall be exercised by the issuance of an order by the Contracting Officer citing the authority of this article. This option may be exercised at any time within (—— months, days) from the effective date of this contract.

(b) The parties hereto agree that upon issuance of the order exercising this option, the following modifications will be made to the contract schedule in effect as of the date such issuance is made:

(1) ARTICLE I—SCOPE OF WORK will be modified to incorporate (Exhibit ——) attached hereto, into this contract.

(2) The period of performance specified in ARTICLE —PERIOD OF PERFORMANCE will be increased by —— (months, days).

(3) The Estimated Cost, Fixed Fee, and Total Cost-Plus-A-Fixed Fee specified in ARTICLE ——, will be increased by $——, $——, and $——, respectively.

(3) The following may be used as the article which defines an option, when the contract is a Cost-Plus-A-Fixed Fee (CPFF) Term Form involving the issuance of task orders.

Option to Extend the Term of the Contract

(a) At the option of the Government, this contract may be extended by the Contracting Officer giving written notice of extension to the Contractor prior to the expiration date of this contract: *Provided*, That such notice shall have no effect if given less than sixty (60) days prior to the last day of the term of the contract unless the Contracting Officer has given preliminary notice of the Government's intention to extend at least sixty (60) days before this contract is to expire. (Such a preliminary notice will not be deemed to commit the Government to renewals.)

(b) If this option is exercised, the Contractor shall provide approximately —— manhours of additional direct labor in pursuit of the effort described in ARTICLE I—SCOPE OF WORK, during the —— ( ) month period immediately following that set forth in ARTICLE —PERIOD OF PERFORMANCE. The parties hereto agree that upon issuance of the order exercising this option, the following modifications will be made to the contract schedule, in effect as of the date that such issuance is made:

(1) The period of performance specified in ARTICLE —PERIOD OF PERFORMANCE, will be increased by —— months.

(2) ARTICLE —LEVEL OF EFFORT, will be increased from "approximately —— manhours" to "approximately —— manhours" and the last sentence of Paragraph A will be changed to read "not less than —— nor more than —— manhours."

(3) The Estimated Cost, Fixed Fee, and total Cost-Plus-A-Fixed Fee specified in ARTICLE —— will be increased by $——, $——, and $——, respectively.

(4) The period of performance article (shown in Paragraph (b) of each preceding clause) may be adjusted to conform to the requirements. Additional optional periods may be included beyond the first option period; however, consideration shall be given to the prohibitions referenced in § 3–1.5402(b).

§ 3–7.5010 Cost sharing.

(a) The policy relative to cost-sharing is set forth in § 3–3.405–3. Cost sharing can be individually negotiated for a specific contract or it can be in accordance with a previously negotiated institutional agreement.

(b) In contracts for which cost sharing has been individually negotiated, the clause set forth in § 1–7.402–2(b) shall be used. Also, an article substantially as follows, which includes a cost-sharing formula agreed upon by the contracting officer and the contractor that provides for the ratio of cost-sharing for both the originally established estimated cost and any increase pursuant to paragraph (b) of that clause, shall be included in the contract.

Cost Sharing

The Contractor agrees to share in the cost of the work hereunder to the extent of not less than (Indicate percent of the total cost or dollar amount, etc.) and shall maintain records of all costs so contributed, as well as costs to be paid by the Government. Such records shall be subject to audit. Costs contributed by Contractor shall not be charged to the Government under any other grant or contract (including allocation to other grants or contracts as part of an independent research and development program).

(c) In contracts for which cost-sharing will be in accordance with a previously negotiated institutional agreement, the clause set forth in § 1–7.402–2(b) shall be used. Instead of specifying a cost-sharing formula, the following language shall be included as a special provision.

Cost Sharing Under Institutional Agreement

This contract is subject to an Institutional Cost-Sharing Agreement which became effective with respect to HEW research contracts on —— (date), and the Contractor agrees that the Government shall not bear the entire cost of the work hereunder.

(d) For contracts which are to be incrementally funded and provide for cost-sharing, the clause set forth in 1–7.402–2(d) shall be used.

§ 3–7.5011 Use of GSA supply sources by contractors performing cost reimbursement type contracts.

Subpart 3–5.9 prescribes the policies and procedures for allowing contractors to utilize GSA supply sources. When the contractor will be authorized to use GSA supply sources, the following clause shall be included in the contract.

General Services Administration Supply Sources

The Contracting Officer may issue the Contractor an authorization to utilize General Services Administration supply sources for property to be used in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government, (1) unless otherwise specifically provided in the contract, (2) unless otherwise provided in the Government Property clause of this contract, or (3) in the absence of both the conditions in (1) and (2) of the clause. However, such property shall not be considered to be "Government-furnished property."

§ 3–7.5012 Procurements involving human subjects.

The policy and procedures to be followed whenever individuals may be at risk as a consequence of participation as subjects in research, development, demonstration, or other activities being conducted under a contract are provided in Subpart 3–4.55. The following clause shall be included in contracts involving human subjects:

Protection of Human Subjects

(a) The Contractor agrees that the rights and welfare of human subjects involved in performance of this contract will be protected in accordance with procedures specified in its current Institutional Assurance on file with the Office for Protection from Research Risks, NIH, HEW. The Contractor further agrees to provide certification at least annually that an appropriate institutional committee has reviewed and approved the procedures which involve human subjects in accordance with the applicable Institutional Assurance accepted by the Office for Protection from Research Risks, NIH, HEW.

(b) The Contractor shall bear full responsibility for the performance of all work and services involving the use of human subjects under this contract in a proper manner and as safely as is feasible. The parties hereto agree that the Contractor retains the right to control and direct the performance of all work under this contract. No provision of this contract shall be deemed to constitute the Contractor or any subcontractor, agent or employee of the

Contractor, or any other person, organization, institution, or group of any kind whatsoever, as the agent or employee of the Government. The Contractor agrees that it has entered into this contract and will discharge its obligations, duties, and undertakings and the work pursuant thereto, whether requiring professional judgment or otherwise, as an independent contractor without imputing liability on the part of the Government for the acts of the Contractor or its employees.

§ 3-7.5013 Contracts under the Indian Self-Determination Act.

Contracts awarded pursuant to the terms of the Indian Self-Determination Act (25 U.S.C. 405(f)) shall contain the clauses set forth in §§ 3-4.6013 and 3-4.6014.

§ 3-7.5014 Negotiated procurements under the Buy Indian Act.

Contracts negotiated pursuant to the terms of the Buy Indian Act shall include the applicable general provisions, Forms HEW-314, -315, -315A or -316, and clauses required by Subpart 3-4.57. Subcontracts negotiated under this authority must also contain the clauses prescribed by Subpart 3-4.57.

§ 3-7.5015 [Reserved]

§ 3-7.5016 [Reserved]

§ 3-7.5017 Method of payment—letter of credit.

When authorized by an individual or blanket determination, findings, and authorization for advance payment, under a letter of credit, delete the clause of the contract entitled "Allowable Cost and Payment" and substitute the following: (See § 3-30.104-1 for further instructions regarding use of the clause.)

Method of Payment—Letter of Credit

(a) The Contractor shall be paid with funds made available under the Federal Reserve Letter of Credit No. ———, established by ————, Department of Health, Education, and Welfare, against which the Contractor will withdraw funds pursuant to prescribed Federal Reserve Letter of Credit procedures, as contained in Treasury Department Circular 1075 (31 CFR Part 205).

(b) At the request of the Contractor and subject to the conditions hereinafter set forth, the Government shall make an advance payment, or advance payments from time to time, to the Contractor. No advance payment shall be made: (1) without the approval of the office administering advance payments (hereinafter called the "Administering Office" and designated in paragraph (g)(2)) as to the financial necessity therefore (except in the case of educational institutions); (2) in an amount which together with all advance payments theretofore made, shall exceed the contract amount, and (3) without a properly certified invoice or invoices. The Contractor shall (1) initiate cash drawdowns only when actually needed for its disbursements, (2) report timely the cash disbursements and balances as required by the Administering Office, and (3) impose the same standards of timing and amount upon any subcontractors including the furnishing of reports of cash disbursements and balances. Failure to adhere to these material provisions will be considered an event under paragraph (f) of this clause.

(c) The funds drawn by the Contractor against the Federal Reserve Letter of Credit referred to above shall repay for current allowable expenditures necessary for the performance of this contract.

(d) When so requested in writing by the Contracting Officer, the Contractor shall re pay to the Government such part of the unliquidated balance of the advance payments as shall, in the opinion of the Contracting Officer, be in excess of the Contractor's current needs or in excess of the contract price.

(e) If upon completion or termination of this contract, all amounts obtained by the Contractor under this letter of credit have not been fully liquidated by authorized charges under the contract, the balance thereof shall be deducted from any sums otherwise due to the Contractor from the Government, and any excess funds shall be repaid by the Contractor to the Government upon demand.

(f) Upon the happening of any of the following events of default: (1) A finding by the Administering Office that the Contractor (i) has failed to observe any of the covenants, conditions, or warranties of these provisions or has failed to comply with any material provisions of this contract, or (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, or (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, or (iv) is delinquent in payment of taxes or of the costs of performance of this contract in the ordinary course of business; (2) appointment of a trustee, receiver or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization, arrangement or liquidation proceedings by or against the contractor; (3) service of any writ of attachment, levy of execution, or commencement of garnishment proceedings; or (4) the commission of an act of bankruptcy; the Government, without limiting any rights it may otherwise have, may, in its discretion and upon written notice to the Contractor withhold further withdrawals under the Letter of Credit and withhold further payments on this contract. Payment can also be stopped for lack of submission of timely and accurate reports in accordance with contract requirements. Upon the continuance of any such events of default for a period of thirty (30) days after such written notice to the Contractor, the Government may, in its discretion, and without limiting any other rights which the Government may have, take the following additional actions as it may deem appropriate in the circumstances:

(1) Charge interest on advance payments outstanding during the period of any such default at the rate established by the Secretary of the Treasury pursuant to Pub. L. 92-41, 80 Stat. 97 for the Renegotiation Board;

(2) Demand immediate repayment of the unliquidated balance of advance payments hereunder; and/or

(3) Take possession of and, with or without advertisement, sell at public sale at which the Government may be purchaser, or at a private sale, all or any part of the property on which the Government has a lien under this contract and, after deducting any expenses incident to such sale, apply the net proceeds of such sale in reduction of the unliquidated balance of advance payments hereunder and in reduction of any other claims of the Government against the Contractor.

(g)(1) No interest shall be charged for advance payments made hereunder, except interest during a period of default as provided in paragraph (f)(2). The Contractor shall charge interest at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 85 Stat. 97 for the Renegotiation Board on subadvances or downpayments to subcontractors and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on subcontracts with educational or research institutions provided such subcontracts are awarded on a no profit or fee basis and for research, development or experimental work.

(2) The office administering advance payments is designated as .

(h) For the performance of this contract, the Government shall pay the Contractor:

(1) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with: (i) 45 CFR Part 74 Appendix E for hospitals; 45 CFR Part 74 Appendix F for nonprofit institutions; 41 CFR 1-15.7 for state and local government agencies; and 41 CFR 1-15.3 for educational institutions as in effect on the date of this contract; and

(2) In accordance with the terms of this contract:

(i) For the purpose of determining amounts to be advanced under this contract, costs previously incurred shall only include those recorded costs which result, at the time of requests for further advances, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid for materials which have been issued from the Contractor's stores inventory and production process for use on this contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocable and allowable indirect costs, as is shown by records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to the Contractor's subcontractors under similar cost standards. In addition, when pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accrued costs therefor shall be excluded from indirect costs for purposes of obtaining advances under this

contract until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals therefor may be included in indirect costs for payment purposes provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from indirect cost for payment purposes of obtaining advances under this contract until payment has been made.

(j) The Contractor shall submit an invoice or a voucher designated as the "Completion Invoice" or "Completion Voucher" promptly following completion of the work under this contract but in no event later than 1 year (or such longer time as the Contracting Officer may in his discretion approve in writing) from the date of such completion. The Contracting Officer can direct that a final report of expenditures be included with the completion invoice or voucher.

(k) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(1) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible for exact statement by the Contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided, however,* That such claims are not known to the Contractor on the date of the execution of the release: *And provided further,* That the Contractor gives notice of such claims in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

§ 3-7.5018 Alternate authorization and consent clause.

The following clause shall be used whenever the contract is for supplies and services and not for experimental, developmental or research work:

Authorization and Consent

The Government hereby gives its authorization and consent (without prejudice to any rights or indemnification) for all use and manufacture, in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract), of any invention described in and covered by a patent of the United States (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract, or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (a) specifications or written provisions now or hereafter forming a part of this contract, or (b) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

§ 3-7.5019 Patent indemnity clause.

(a) A patent indemnity clause is not required to be included in any contract but can be incorporated if the contracting officer deems it necessary.

(b) Such a clause may only be utilized:

(1) When the contract amount is more than $10,000;

(2) The contract is for supplies which normally are or have been sold or offered for sale to the public in the commercial open market or which are the same as such supplies with a relatively minor modification thereto; and

(3) When the Authorization and Consent clause that is included in the General Provisions (Form HEW-314, -315, -315A, or -316) is included in the contract unless the contract is for supplies of the kind described in paragraph (b)(2) of this section.

(c) The following Patent Indemnity clause shall be used in accordance with paragraphs (a) and (b) of this section.

Patent Indemnity

The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further such indemnity shall not apply to: (i) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials of equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor; (ii) an infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the Contractor; or (iii) a claimed infringement which is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(For the purpose of excluding from patent indemnification such items as normally are not or have not been sold or offered for sale by any supplier to the public in the open market, the following sentence may be added to the end of the clause: (The foregoing shall not apply to the following items: (list the items to be excluded).))

§ 3-7.5020 Alternate rights-in-data clauses.

§ 3-7.5020-1 Rights in data—special works.

The clause set forth below shall be used instead of the clause in Forms HEW-314, -315, -315A, and -316 whenever the contract is (a) primarily for the production of motion pictures or television recordings with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like; (b) for histories of the Department; (c) for work pertaining to training or career guidance; or (d) for works pertaining to the instruction or guidance of Government employees in the performance of their official duties. The clause shall also be used, after it has been appropriately modified, in contracts which provide for the

modification of existing motion pictures or television recordings through editing, translation, or the addition of subject matter. However, all proposed modifications of the clause must have the approval of the Director, Division of Procurement Policy and Regulations Development (DPPRD–OGP). The clause is as follows:

Rights in Data—Special Works

(a) The term "Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings or other graphic representations, and works of similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) All Data first produced in the performance of this contract shall be the sole property of the Government. The Contractor agrees not to assert any rights at common law or in equity or establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole or in part or in any manner or form, or authorize others to do so, without the written consent of the Government until such time as the Government may have released such Data to the public.

(c) The Contractor hereby grants to the Government a royalty-free, nonexclusive and irrevocable license throughout the world (i) to publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all Data which is not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract, and (ii) to authorize others to do so.

(d) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any Data furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in such data.

(e) Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract, *Provided*, such incorporated material is identified by the Contractor at the time of delivery of such work.

§ 3–7.5020–2 Rights in data—existing work.

(a) The clause set forth below shall be added to the Standard Form 32, General Provisions, whenever the procurement is exclusively for existing motion pictures or television recordings. The contract may set forth limitations consistent with the purposes for which the material covered by the contract is being procured. Examples of these limitations are means of exhibition or transmission, time, and type of audience and geographical location. If the clause is modified, paragraph (b) should be changed to make the indemnity equal with the rights acquired under paragraph (a) of the clause.

(b) Any questions concerning any proposed modifications of the clause should be addressed to the Director, Division of Procurement Policy and Regulations Development, OGP. The clause is as follows:

Rights in Data—Existing Works

(a) Except as otherwise provided in this contract, the Contractor hereby grants to the Government a royalty-free, nonexclusive, irrevocable license to distribute, use, and exhibit the material called for under this contract for Governmental purposes throughout the world, and to authorize others so to do.

(b) The contractor shall indemnify and save and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the distribution, use, or exhibition of any material furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in said material.

§ 3–7.5021 Maximum allowable cost for drugs.

The following clause, or one reading substantially as follows, shall be included in all contracts subject to the provisions of the Maximum Allowable Cost regulation and § 3–4.6104.

Maximum Allowable Cost for Drugs

(a) Reimbursement for drugs provided or used under this contract shall be in accordance with the Maximum Allowable Cost (MAC) regulation set forth in 45 CFR Subtitle A, Part 19. In accordance with § 19.3 of the MAC regulation, the amount which is recognized for reimbursement or payment purposes for any drug purchased under the terms of the contract shall not exceed the lowest of:

(1) The maximum allowable cost of the drug, if any, established in accordance with § 19.5 of the MAC regulation plus a reasonable dispensing fee;

(2) The acquisition cost of the drug plus a reasonable dispensing fee; or

(3) The provider's usual and customary charge to the public for the drug: *Provided*, That:

(i) The maximum allowable cost established for any drug shall not apply to a brand of that drug prescribed for a patient which the prescriber has certified in his own handwriting is medically necessary for that patient: *And provided, further*, That:

(ii) When compensation for drug dispensing is included in some other amount payable to the provider by the reimbursing or payment program agency, a separate dispensing fee will not be recognized.

(b) The Contractor agrees:

(1) To include the following solicitation notification in all applicable solicitations issued under this contract and to ensure that subcontractors include it in any subsequent applicable solicitations:

This procurment is subject to the Maximum Allowable cost (MAC) regulation set forth in Part 19 to Subtitle A of Title 45 of the Code of Federal Regulations.

(2) To include this clause, including this paragraph (b), in all applicable subcontracts, regardless of tier, awarded pursuant to this contract.

(3) To include the furnished MAC determination or acquisition cost data in all applicable solicitations issued under this contract and in all resultant subcontracts awarded pursuant to this contract.

§ 3–7.5022 Withholding of contract payments.

The following clause is to be included in all solicitations, resultant contracts, and contract modifications effecting supplemental agreements as specified in § 3–57.104–3(a):

Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due, or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

§ 3–7.5023 Excusable delays.

The following clause is to be included in solicitations and contracts (and contract modifications effecting supplemental agreements) as specified in § 3–57.104–3(b)(3).

Excusable Delays

Except with respect to failures of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor.

Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and

without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of the contract, unless (a) the supplies or services to be furnished by the subcontractor were obtainable from other sources, (b) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (c) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.)

§ 3-7.5024 Statement of cost and personnel responsible for reports.

The contracting officer shall include the following clause in every contract for consultant services as defined in the General Administration Manual, Chapter 8-15:

Statement of Cost and Personnel Responsible for Report

The Contractor shall set forth on the cover of each report submitted pursuant to this contract (except progress reports incidental to the performance of the work) a statement as follows, with the indicated number, amount, and names filled in:

This report is made pursuant to contract #————. The amount charged to the Department of Health, Education, and Welfare for the work resulting in this report (inclusive of the amounts so charged for any prior reports submitted under this contract) is $————. The names of the persons, employed or retained by the Contractor, with managerial or professional responsibility for such work, or for the content of the report, are as follows:

———————————

———————————

The Contractor shall exercise due care to cause the above quoted statement to be accurate.

§ 3-7.5025 Additional payment provision.

The following clause is to be included in all solicitations and resultant contracts for construction which contain the "Payments to Contractor" clause set forth in § 1-7.602-7:

Additional Payment Provision

Unless otherwise stated in this contract, there will be taken into consideration in computing progress payments material that will be incorporated into the structure if such material is delivered at the site, or is delivered to the Contractor and properly stored by him in a suitable warehouse, storage yard, or similar place either (a) within 25 miles of the site or (b) as otherwise approved by the Contracting Officer. Before each such payment is made, the Contractor shall furnish to the Contracting Officer such evidence as he may require of the quantity and value of such material and that it will be incorporated into the structure. If such material is stored off the site, the Contractor shall furnish to the Contracting Officer, before payment, properly executed bills of sale to the Government for the delivered material upon which such payment is to be made.

PART 3-16—PROCUREMENT FORMS

The existing Subpart 3-16.50 is deleted in its entirety, and the following substituted:

Subpart 3-16.50—Forms for Negotiated Procurement

Sec.

3-16.5000 Scope of subpart.
3-16.5001 [Reserved.]
3-16.5002 Contract forms.
3-16.5002-1 Negotiated Contract (Form HEW-554).
3-16.5002-2 Contents of Contract (Form HEW-555).
3-16.5002-3 Special Provisions (Form HEW-556).
3-16.5002-4 General Provisions.
3-16.5002-5 Standard Form 30, Amendment of Solicitation/modification of Contract.
3-16.5002-6 Instructions Applicable to Title Provisions of Government Property Clause in Forms HEW-314, -315, and -315A.
3-16.5002-7 Form HEW-315A Revisions.
3-16.5003 Additions, Modifications, and Substitutions to General Provisions.
3-16.5004 Availability of Forms.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3-16.50—Forms for Negotiated Procurement

§ 3-16.5000 Scope of subpart.

(a) This subpart prescribes forms to be used in procuring:

(1) Supplies, equipment, and services by negotiation when authorized under Subpart 3-3.2;

(2) Experimental, developmental or research work and related services and property; and

(3) The conduct of studies or surveys.

(b) Excluded from the scope of this subpart are:

(1) Purchases that do not exceed $10,000—small purchases (See Subparts 1-3.6 and 3-3.6);

(2) Contracts for the construction, alteration, or repair of buildings, bridges, roads, or other real property (See Subpart 1-16.4) or the leasing of real property (See Subpart 1-16.6);

(3) Contracts for the procurement of architect-engineer professional services by negotiation (See Subpart 1-16.7).

§ 3-16.5001 [Reserved]

§ 3-16.5002 Contract forms.

§ 3-16.5002-1 Negotiated contract (Form HEW-554).

Negotiated Contract, Form HEW-554, is the cover page of the contract and must be executed to reflect mutual agreement by the contracting parties (See § 3-16.950-554).

§ 3-16.5002-2 Contents of contract (Form HEW-555).

Contents of Contract, Form HEW-555, shall be used to list the contents of the contract including applicable "Special Provisions" by article number and name, and "General Provisions" (Forms HEW-314, -315, -315A, -316) which are appropriate to the type of contract consummated (See § 3-16.950-555).

§ 3-16.5002-3 Special provisions (Form HEW-556).

Each contract shall include a section headed "Special Provisions" (Form HEW-556 is optional for this purpose) to describe the scope of work, schedule, special terms, and conditions, and any additions, modifications, or substitutions, to General Provisions, if any, as authorized by § 3-7.50. (See § 3-16.950-556).

§ 3-16.5002-4 General provisions.

(a) The following procedures are applicable to the incorporation of General Provisions into Request for Proposals (RFP's) and contracts by reference.

(1) *Request for proposals (RFP's).* Copies of the contract General Provisions will no longer be included in RFP's. The synopsis to be published in the Commerce Business Daily and the resultant RFP will include a statement identifying the contract General Provisions to be used (Form HEW-314, -315, -315A, or -316) and will state an address where a copy of the General Provisions may be obtained by the prospective offeror.

(2) *Contractual documents.* Copies of the contract General Provisions will be attached to only those contractual documents that have special significance; i.e., the contractor's copy and the official contract file copy.

(b) The following are the applicable General Provisions to be used in contracts covered by this Subpart 3-16.50.

(1) Form HEW-314 (Rev. 9/76) General Provisions for Negotiated Fixed-Price Research and Development

Contract. It is noted that, with the deletion of Clause 17, "Patent Rights," and the substitution of the alternate Authorization and Consent clause, the form should be used with other types of nonpersonal services contracts, e.g., studies, surveys, and demonstrations in socio-economic areas.

(2) Form HEW–315 (Rev. 7/76), General Provisions for Negotiated Cost-Reimbursement Type Contract with Educational Institutions.

(3) Form HEW–315A (Rev. 7/76), General Provisions for Negotiated Cost-Reimbursement Type Contract with Nonprofit Institutions Other Than Educational Institutions.

(4) Form HEW–316 (Rev. 7/76), General Provisions for Negotiated Cost-Plus-A-Fixed Fee Type Contract.

§ 3–16.5002–5 Standard form 30, amendment of solicitation/modification of contract.

Modifications of existing contracts shall be accomplished by the use of change orders and/or supplemental agreements. Standard Form 30, Amendment of Solicitation/Modification of Contract, may be used for these purposes (See § 1–16. 901–30 for illustration of form).

§ 3–16.5002–6 Instructions applicable to title provisions of Government property clause in forms HEW –314, –315, and –315A.

(a) The following instructions are applicable relative to the Title Provisions contained in Clause 11, Government Property, of Forms HEW–315 and –315A.

(1) Research contracts with nonprofit institutions of higher education or with nonprofit organizations whose primary purpose is the conduct of scientific research shall provide for the transfer to contractors of title to each item of equipment having an acquisition cost of less than $1,000 which was purchased with funds available for research, if approval of the contracting officer is given to the contractor to obtain such property in accordance with HEWPR 3–56.3 (See subparagraph (c)(2) of the Government Property Clause of Forms HEW–315 and –315A.)

(2) Subparagraph (c)(3) of the Government Property Clause provides that title to equipment costing $1,000 or more that was purchased with research funds shall vest as set forth in the contract. Title to equipment having an acquisition cost of $1,000 or more may:

(i) Vest in the institution subject to a right of the Government to direct vesting of title in the Government or a third party within twelve (12) months after termination or completion of the contract under which the equipment was acquired; or

(ii) Vest in the Government when it is determined that vesting of title in the contractor under (i) above would not be in the furtherance of the Department's research objectives.

(3) Applying subparagraphs (c)(2) and (c)(3) of Clause 11, Government Property, the contracting officer must determine whether the contract is for scientific research and is with a nonprofit institution of higher learning or a nonprofit institution whose primary purpose is the conduct of scientific research. If this determination is made, one of the following provisions must be included in the special provisions of the contract.

(i) *Title to Equipment Acquired Under the Contract With Contract Funds.* (Application of Clause 11, Government Property, subparagraphs (c)(2) through (c)(5).)

This contract is for scientific research and is with a nonprofit institution of higher education or with a nonprofit institution whose primary purpose is the conduct of scientific research. Therefore, pursuant to subparagraph (c)(2) of Clause 11, Government Property, title to equipment having an acquisition cost of less than $1,000 shall vest in the Contractor. Title to equipment having an acquisition cost of $1,000 or more purchased with funds made available under the contract shall vest in the Contractor subject to the provisions of Clause 11, Government Property: *Provided,* That the Government may direct transfer of the title to the Government of to a third party within twelve months after completion or termination of the contract. The transfer of title to such equipment to the Government or to a third party shall not be the basis for any claim against the Government by the Contractor.

(ii) *Title to Equipment Acquired Under the Contract with Contract Funds.* (Application of Clause 11, Government Property, subparagraphs (c)(2) through (c)(5).)

This contract is for scientific research and is with a nonprofit institution of higher education or with a nonprofit institution whose primary purpose is the conduct of scientific research. Therefore, pursuant to subparagraph (c)(2) of Clause 11, Government Property, title to equipment having an acquisition cost of less than $1,000 shall vest in the Contractor. Title to equipment having an acquisition cost of $1,000 or more purchased with funds available under the contract shall vest in the Government.

(4) When the contracting officer has determined that a contract with an educational institution does not provide for scientific research or is not with a nonprofit institution whose primary purpose is the conduct of scientific research, the following must be added as a special provision.

(i) *Title to Equipment Acquired Under the Contract with Contract Funds.* The provisions of subparagraphs (c)(2) through (c)(5) of Clause 11, Government Property, shall not apply to this contract. Title to all equipment acquired with contract funds shall vest in the Government.

(b) Paragraph (iii) of Clause 12, Government Property, in the revised Form HEW–314 sets forth the Government Property clause to be used when the contract is without a fee or profit and is with an educational or nonprofit institution. In applying the provisions of subparagraphs (c)(2) through(c)(5) of Clause 12 the contracting officer must determine whether the contract is for scientifc research and is with a nonprofit institution whose primary purpose is the conduct of scientific research. When this determination is made the procedures set forth in paragraphs (3) or (4) above must be followed.

§ 3–16.5002–7 Form HEW–315A revision.

The Form HEW–315A shall be utilized with the following modifications. Whenever a contract with a nonprofit institution provides for the payment of a fixed fee:

a. Delete Clause 14, Termination for the Convenience of the Government, and substitute the clause entitled "Termination for Default or for the Convenience of the Government" (See FPR 1–8.702 for the text of this clause).

b. Add a clause entitled "Excusable delays" (See FPR 1–8.708 for the text of this clause).

c. Delete Clause 4, Allowable Cost and Payment, and substitute the clause entitled "Allowable Cost, Fixed Fee and Payment" (See FPR 1–7.202–4 for the text of this clause).

However, the following paragraph (a) shall be used instead of the paragraph set forth in the FPR.

(a) For the performance of this contract, the Government shall pay to the Contractor:

(1) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with:

(i) 45 CFR Part 74, Appendix F;

(ii) The terms of the contract; and

(2) Such fixed fee, if any as may be provided for in the schedule.

d. Delete the last sentence of Clause 27, Federal Reports Act, and substitute the following: Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance with Clause ———, Excusable Delays.

§ 3–16.5003 Additions, modifications, and substitutions to general provisions.

Contracting officers shall include additional clauses or substitute alternate clauses for those included in the four General Provisions (Forms HEW–314–316) in accordance with applicable instructions in § 3–7.50 and

the FPR. Written deviation requests shall be submitted, through procurement channels, to the Director, Division of Procurement Policy and Regulations Development, Office of Grants and Procurement (DPPRD–OGP), Office of the Assistant Secretary for Management and Budget, Office of the Secretary (OASMB–OS). The Director, DPPRD–OGD will inform the contracting officer through procurement channels, of the disposition of the request. In the event expeditious action is required, contracting officers are authorized to request oral or written approval directly from the Director, DPPRD–OGP, who will notify the contracting officer of the disposition of the request.

§ 3-16.5004 Availability of forms.

The forms prescribed by this Subpart are available through normal requisitioning channels.

Miscellaneous Amendments

Miscellaneous amendments are required to provide for the consolidation of the various additional contract clauses into Subpart 3–7.50. The optional clauses are deleted from the other subparts of the regulation and the appropriate references are cited as follows:

PART 3–1—GENERAL

§ 3-1.520 [Amended]

In Subpart 3–1.52, Safety and Health, under § 3–1.5205, Contract clause, the last sentence in paragraph (a) is revised to read:

The clause set forth in § 3–7.5002 may be appropriately modified to meet the needs of the individual contract.

Paragraph (b) is deleted in its entirety.

PART 3–30—CONTRACT FINANCING

§ 3-30.104-1 [Amended]

In Subpart 3–30.1, Forms of Financing, under § 3–30.104–1, Letters of Credit, the last sentence in paragraph (a) is revised to delete the reference to § 3–7.5007 and substitute § 3–7.5017.

PARTS 3–11—FEDERAL, STATE, AND LOCAL TAXES

§ 3-11.350-3 [Amended]

§ 3-11.350-4 [Deleted]

In Subpart 3–11.3, State and local Taxes; (a) under § 3–11.350–3, North Carolina sales and use taxes, paragraph (d), Contract clause, is revised to delete the clause and the first sentence is amended to delete the words "The clause set forth below * * * " and substitute; "The clause set forth in § 3–7.5004 * * *."; and (b) § 3–11.350–4, Iowa sales and use taxes, is deleted in its entirety.

PART 3–1—GENERAL

§§ 3-1.354 and 3-1.355 [Amended]

In Subpart 3–1.3, General Policies; (a) under 3–1.354, Contracts conditioned upon the availability of funds, paragraph (c), Contract clause, is deleted in its entirety and the following is substituted:

(c) *Solicitation notice and contract clause.* The clause set forth in § 3–7.5006 shall be inserted in all solicitations and resultant contracts.

and (b) § 3–1.355, Federal Reports Act of 1942, is amended to delete paragraph (c).

§ 3-1.5400 [Amended]

In Subpart 3–1.54, Options:

(a) Under § 3–1.5400, Scope of subpart, paragraph (c), the reference to § 3–1.5406 in the last sentence is deleted and § 3–7.5009 is substituted;

(b) Section 3–1.5405 is deleted in its entirety and the following substituted.

§ 3-1.5405 Examples of option articles for fixed-price contracts.

Option articles for fixed-price type contracts are set forth in § 3–7.5009(c).

(a) Section 3–1.5406 is deleted in its entirety and the following is substituted:

§ 3-1.5406 Examples of option articles for cost-reimbursement type contracts.

Option articles for cost-reimbursement type contracts are set forth in § 3–7.5009(b).

PART 3–3—PROCUREMENT BY NEGOTIATION

§ 3-3.405-3(g) [Amended]

In Subpart 3–3.4, Types of Contracts, § 3–3.405–3(g), Contract clauses, is deleted in its entirety and the following is substituted:

§ 3-3.405-3 Cost-sharing contract.

* * * * *

(g) *Contract clauses.* Clauses for cost sharing in individually negotiated contracts or cost sharing under institutional agreements are set forth in § 3–7.5010.

PART 3–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

§ 3-5.950 [Amended]

In Subpart 3–5.9, Use of GSA Supply Sources by Contractors Performing Cost-Reimbursement Type Contracts, the clause set forth in § 3–5.950 is deleted; the words in the first sentence which read "the following clause * * *" are are changed to "The clause set forth in § 3–7.5011 * * *"; and the second sentence of that paragraph, which begins with "The last sentence * * *" is deleted.

PART 3–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

§ 3-4.6010 [Amended]

In Subpart 3–4.60, Contracts Under the Indian Self-Determination Act, § 3–4.6010, Use of General Services Administration supply sources, the clause set forth therein is deleted: the following is substituted for the first three words of the second sentence: "The clause set forth in § 3–7.5011 * * *"; and the colon following "* * * GSA supply sources;" in that paragraph is deleted and a period is substituted.

§ 3-4.5505 [Amended]

In Subpart 3–4.55, Procurements Involving Human Subjects, § 3–4.5505, Contract clause, is deleted in its entirety and the following is substituted:

§ 3-4.5505 Contract clause.

The clause set forth in § 3–7.5012 shall be inserted in all contracts involving human subjects.

PART 3–56—GOVERNMENT PROPERTY

§§ 3-56.605, 3-56.606, 3-56.607, 3-56.608 and 3-56.609 [Amended]

In Subpart 3–56, Government Property, the following changes are made:

a. Section 3–56.605 is deleted and the following substituted:

§ 3-56.605 Abandonment of Government property clause.

The clause set forth in § 3–7.5007–1, Abandonment of Government Property, shall be used whenever the contracting officer deems it advisable to abandon Government Property on the contractor's premises (See § 3–56.508).

b. Section 3–56.606 is deleted and the following is substituted:

§ 3-56.607 Clause for Government property furnished "as is."

The clause set forth in § 3–7.5007–2, Government Property Furnished "as is", shall be included in all contracts in which Government property is to be furnished in an "as is" condition in accordance with § 3–56.205.

c. Section 3–56.607(a) is deleted and the following substituted:

§ 3-56.607 Use and charges clause for facilities contracts.

(a) The "Use and Charges" clause for use in all facilities contracts is set forth in § 3–7.5007–3.

d. Section 3–56.608 is deleted and the following is substituted:

§ 3–56.608 Maintenance clause for facilities contracts.

The clause set forth in § 3–7.5007–4, Maintenance of Government Property, shall be included in all facilities contracts.

e. Section 3–56.609 is deleted and the following is substituted:

§ 3–56.609 Liability clause for facilities contracts.

The clause set forth in § 3–7.5007–5, Liability for Government Property, shall be included in all facilities contracts.

[FR Doc. 79–19686 Filed 6–22–79; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 420

Off-Road Vehicle Use

Correction

In FR Doc. 79–18670, published at page 34907, as Part X of the issue of Friday, June 15, 1979 the cover page, page 34907, should read as follows:

Friday, June 15, 1979

Part X

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Off-Road Vehicle Use

BILLING CODE 1505–01–M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

Emergency Energy Conservation; Fiscal Year 1979 Crisis Intervention Program

Correction

In FR Doc. 79–18992 appearing on page 34946 in the issue for Monday, June 18, 1979, in the third column, the 2nd paragraph should be corrected to read as follows:

EFFECTIVE DATE: This final rule is effective June 18, 1979, as a thirty-day waiting period would have been impractical and contrary to the public interest.

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 79–3; RM–2997; FCC 79–382]

Providing Separation of Handheld Pilot Radio Equipment From Ship Station Equipment

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

SUMMARY: This rulemaking will exempt "walkie-talkies" (handheld VHF radiotelephone units) in some situations from the requirements to maintain a certain number of channels and a watch on Channel 16. The Coast Guard and a number of pilots associations, which will be affected by the rule change, proposed the amendment. The amendment will clarify the responsibilities of pilots when navigating in congested waters.

EFFECTIVE DATE: July 30, 1979.

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

FOR FURTHER INFORMATION CONTACT: Penelope Wells, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 83 of the rules to provide separation of handheld pilot radio equipment from ship station equipment; Report and Order (See 44 FR 9782, February 15, 1979).

Adopted: June 12, 1979.

Released: June 18, 1979.

By the Commission:

1. A Notice of Proposed Rule Making in the above-captioned matter was released on February 12, 1979, and was published in the **Federal Register** on February 15, 1979 (44 FR 9782). The time for filing comments and reply comments has expired and no comments have been filed. We conclude, therefore, that the rules should be changed as proposed.

2. This rule change will apply to handheld VHF radiotelephone units (popularly referred to as "walkie-talkies") which are brought on board by pilots who aid vessels navigating in congested or complicated waters. These units will be exempt from the requirement to maintain a certain number of channels and a watch on maritime mobile VHF channel 16. The amendment, which will distinguish handheld VHF equipment operated by a pilot for bridge-to-bridge communications from other ship's radio equipment, was originally the subject of a Coast Guard Petition for Rule Making. The Coast Guard and the FCC have joint responsibility for administering the Bridge-to-Bridge Act, 33 USCA §§ 1201–1208, which sets aside a frequency to be used for navigational communications.

3. Regarding questions on matters covered in this document contact Penny Wells, Telephone (202) 632–7175.

4. Accordingly, *it is ordered,* That Part 83 of the rules is amended as indicated below effective July 30, 1979.

Authority for the promulgation of these rules is contained in sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended.

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

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Paragraph (b) of § 83.106 is amended, paragraph (b)(5) is deleted and paragraph (c) is added to read as follows:

§ 83.106 Required frequencies for radiotelephony.

* * * * *

(b) Except as provided in paragraph (c) of this section, each VHF radiotelephone ship station, or if more than one VHF radiotelephone ship station is being operated from a vessel, then at least one station, shall be able to transmit and receive on the following frequencies:

(1) The distress, safety and calling frequency 156.800 MHz;

(2) The primary intership safety frequency 156.300 MHz;

(3) One or more working frequencies; and

(4) All other frequencies necessary for its service.

(c) Where a ship ordinarily has no requirement for VHF communications, handheld VHF equipment may be used solely for navigational communications to comply with the bridge-to-bridge requirements contained in Subpart X.

2. Section 83.224 is amended to read as follows:

§ 83.224 Watch on 156.8 MHz.

Each VHF ship station, or if more than one VHF ship station is being operated from a vessel (for example, if a pilot is operating his radio equipment onboard the vessel), then at least one station licensed to transmit by telephony, shall, during its hours of service maintain a watch on the frequency 156.8 MHz whenever such station is not being used for exchanging communications. The watch is not required:

(a) Where a ship station is operating only with handheld bridge-to-bridge VHF radio equipment under § 83.106(c) of this part; or

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. FE-77-05; Notice 7]

Light Truck Average Fuel Economy Standards; Model Year 1981

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice reduces the average fuel economy standards applicable to two wheel drive light trucks manufactured in model year 1981. This action is taken in response to a petition from Chrysler Corporation providing new information which indicates that their capability to improve the fuel economy of those trucks is less than had been determined in the earlier rulemaking. This notice also denies Chrysler's request to reduce the fuel economy standards applicable to four wheel drive light trucks. The reduction of the two wheel drive standard is intended to produce standards which are still at the maximum feasible levels achievable by the manufacturers taking the new information into account.

DATES: These standards are applicable for the 1981 model year.

FOR FURTHER INFORMATION CONTACT: Mr. Francis J. Turpin, Office of Automotive Fuel Economy Standards (NRM-21), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-472-6902).

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1978, in 43 FR 11995, NHTSA established fuel economy standards for light trucks manufactured in the 1980-81 model years. The 1981 standards were established at levels of 18.0 mpg for two-wheel drive (4 x 2) light trucks and 15.5 mpg for four-wheel drive (4 x 4) light trucks. Vehicles subject to the standards include pick-up trucks, vans, and utility vehicles with gross vehicle weight ratings (GVWR) of up to and including 8500 pounds. The establishment of these standards is authorized by section 502(b) of the Motor Vehicle Information and Cost Savings Act ("the Act"), 15 U.S.C. 2002(b). The Act requires that standards be established for each model year at the "maximum feasible average fuel economy level," considering technological feasibility, economic practicability, the effects of other Federal motor vehicle standards on fuel economy, and the need of the Nation to conserve energy.

The fuel economy standards were largely based on the plans of the manufacturers to make specified improvements to increase the fuel economy of their trucks. They were set under the presumption that the Environmental Protection Agency (EPA) would approve by January 1, 1980, the use of low friction lubricants in fuel economy testing under its procedures. The final rule provided that if approval were not given by that date, the standards would each be 0.5 mpg less, i.e., 17.5 mpg for 4 x 2's and 15.0 mpg for 4 x 4's. This reduction in the fuel economy standards would be made to account for the manufacturers' diminished fuel economy improvement capability should they not be permitted to obtain credit for the benefits associated with use of these lubricants.

On September 20, 1978, Chrysler requested that these standards be reduced to 16.5 and 14.5 mpg for 4 x 2's and 4 x 4's respectively. Chrysler claimed that without such a reduction, it would be required to either violate the standards or drastically curtail its sales of larger, less fuel efficient trucks. After ascertaining that Chrysler intended this request to be treated as a formal petition for rulemaking under the agency's procedures, the agency requested that specific information supporting the petition be submitted. Some of this information was submitted on November 24, 1978, and the agency initiated rulemaking on the petition on December 18, 1978. See 43 FR 58840. The notice did not propose any specific change in the standards. Rather, it mentioned the reductions sought by Chrysler and invited comment on issues raised by that company's petition.

The agency also contacted the other vehicle manufacturers to determine whether they were having similar difficulties in working toward compliance with the 1981 standards. Ford projected being able to achieve 17.6 mpg for its 4 x 2 fleet by 1981, thereby complying with the standard only if the lubricant-related standard reduction occurred. That company projected being capable of obtaining only a 0.1 mpg benefit from the use of improved engine lubricants, rather than the 0.5 mpg projected by the agency. GM projected its "free market" improvement capability for 1981 to be only 16.2 mpg, despite the fact that it projected compliance with the 18 mpg standard a year ago. The main factors in the lower GM capability projection are its changed position on the feasibility of certain marketing actions to improve its fuel economy by 0.8 mpg by 1981 and a complete (and only partially explained) reversal of position on its ability to offset the effects of changes in light truck emission standards. In the case of the 4 x 4 standard, American Motors and Ford project compliance with the 15.5 mpg standard, while GM projected only 14.2 mpg, for the same reasons as in the case of the 4 x 2 standard.

Summary of Decision

The 1981 4 x 2 standard is being reduced by 0.8 mpg to 17.2 and Chrysler's request for a reduction of the 4 x 4 standard is being denied. The agency agrees with the arguments presented by Chrysler and the other companies in most respects, the main exception being the issue of whether the use of improved lubricants could provide a fuel economy benefit for 1981 model year light trucks. In that case, the impact on the standards of the agency's disagreement is contingent upon whether the EPA permits the use of these lubricants in fuel economy testing by January 1, 1980. If EPA does not approve the lubricants, each of the standards would be 0.5 mpg less, i.e., the standards would be 16.7 mpg for 4 x 2's and 15.0 mpg for 4 x 4's.

The major differences between the basis for this decision and that for the prior rulemaking are (in order of magnitude of fuel economy effect for Chrysler): Reductions in expected fuel economy benefits from engine displacement or drive ratio reductions, engine efficiency improvements and

weight reduction; errors in the agency's prior baseline or larger than anticipated effects of emission standards and test procedure changes; reduced benefits from aerodynamic and rolling resistance changes; changes in product mix; and changes in EPA fuel economy test procedures. Each of these areas resulted in a reduction in the agency's fuel economy improvement projections for Chrysler of from 0.1 mpg to 0.5 mpg, with the magnitude of the effect varying for the 4 x 2 and 4 x 4 fleets. Chrysler also provided information on certain fuel economy improvements which it plans to implement for the 1981 model year but which were not included in the agency's original standard-setting analysis. These items have been included in the agency's analysis of the Chrysler petition, and partially offset the effects of the previously mentioned reductions in fuel economy improvement potential. For the other manufacturers, the main factor causing their lowered projected capabilities is (in addition to the factors previously discussed) the agency's changed position on the effect of 1979 model year emission standards. While in the 1980–81 rulemaking, the agency concluded that the more stringent emission standards need not reduce fuel economy below pre-1979 levels, the agency now believes that a fuel economy impact of the more stringent 1979 emission standards exists and cannot be offset by 1981.

In deciding whether the standards should be reduced, the agency balanced the difficulties of the manufacturers in meeting the previously established standards against the benefits to the nation of compliance with the higher standards. In this case, it was decided that the marketing risks associated with meeting the higher 4 x 2 standard outweighed the potential energy savings.

The agency's analysis of the more significant areas of disagreement between the Chrysler petition and the conclusions drawn in the previous rulemaking to establish the 1981 standards follows. In conducting this analysis, the agency viewed the Chrysler petition as a continuation of the original rulemaking. If any changes were to be made in the existing standards, the petitioner would have to demonstrate to the agency's satisfaction that the agency had erred in its original analysis of the maximum feasible level of average fuel economy achievable within the leadtime available from the issuance of the original final rule. A complete discussion of the technical basis for this decision is contained in the agency's Rulemaking Support Paper, copies of which are available from the individual listed as the "information contact" at the beginning of this notice.

Explanation of Decision

(a) *Reduction in engine displacement and drive ratios.* In establishing the 1980 and 1981 standards in March 1978, the agency projected that the manufacturers could make reductions in the product of average engine displacement and final drive ratio (CID × N/V) of approximately 10 percent, in addition to an amount made possible as vehicle weight is reduced (keeping vehicle performance relatively constant). In Chrysler's case, such a change was estimated to amount to a 16 percent reduction in CID × N/V, producing a fuel economy gain of about 1.1 mpg for 4 × 2's. In the case of 4 × 4's, a 16.4 percent reduction was projected, for a 0.92 mpg benefit in fuel economy. These reductions were greater than those projected by Chrysler in the last rulemaking by a large amount, but the agency concluded that there was no reason to believe that Chrysler could not achieve performance levels commensurate with those of the other manufacturers. See Rulemaking Support Paper Supplement (RSPS) for the 1980–81 rulemaking, page III–163–6.

In its petition and related submissions, Chrysler has provided information from which the agency calculated Chrysler's planned reductions in CID × N/V for model year 1981. These reductions appear to closely approximate the reductions projected by the agency in the last rulemaking (within about 1 percent). However, the agency's previous projections of CID × N/V levels for Chrysler in 1981 and Chrysler's current planned levels are not directly comparable, since Chrysler's planned values include the effect of rerating about 10 percent of its truck fleet (principally those with the highest CID and axle ratios) over the 8,500 pound GVWR dividing line, an effect not considered in the 1980–81 rulemaking. Therefore, the agency attempted to determine whether Chrysler's planned reductions in CID × N/V for 1981 were in fact the maximum feasible reductions, as required by the Act. In the 1980–81 rulemaking, the extent to which reductions in engine displacement or drive ratios could be implemented were determined to be limited by (a) minimum truck performance criteria (e.g., ability to pull a load up a steep grade), (b) emission problems with extremely low performance levels, (c) technical factors, which may produce diminishing fuel economy returns beyond some levels of CID × N/V reductions, and (d) market acceptability of trucks with lower acceleration characteristics, notwithstanding the ability of the truck to meet minimum functional requirements. See, e.g., DN–82, Att. II (GM).

A comparison of Chrysler's planned 1981 levels to those of the other manufacturers indicates that GM and Ford project CID × N/V levels approximately 5 percent lower than Chrysler for both 4 x 2's and 4 x 4's, even though Chrysler's trucks are lighter than their competitors'. The Center for Auto Safety argues that Chrysler should be able to offset this discrepancy between their performance levels and their competitors. DN–90, p.6.[1] The agency asked Chrysler why such reductions could not be made, and Chrysler responded that, according to their marketing experts, severe marketing problems would be encountered at lower CID × N/V levels than those planned. DN–190. For each manufacturer, the CID × N/V product is governed by the available engines, transmissions (e.g., overdrive) and axle ratios. Given the mix of engines produced by Chrysler, the agency believes that they face a greater marketing risk from performance reduction than do their competitors. The Chrysler fleet is powered by 360, 318, and 225 cubic inch engines. Given the very large gap between the 318 and the 225, Chrysler's ability to shift consumers to the 225 from the 318, the key to any performance reduction, faces them with the very distinct possibility of losing customers to competitors with a more complete range of engines or, to competitors with engines smaller than their 318 but larger than their 225.

Although the agency (or anyone else for that matter) cannot quantify with certainty the magnitude of the marketing risk faced by Chrysler in attempting to make CID × N/V reductions greater than those it now plans, the agency is particularly concerned about the potential impacts on Chrysler's economic position of taking such marketing actions. At a time when its competitors are earning record profits, Chrysler has faced steady financial losses. Further, Chrysler's truck sales (particularly vans and other two-wheel drive light trucks) have been one of its more profitable operations, and erosion of its competitive position in that market segment could be especially harmful to that company. While GM and Ford face

[1] The abbreviation "DN" followed by a number refers to the docket number of material in NHTSA docket FE–77–05–NO 6. This docket is located in Room 5108 of the Nasalf Bulding, 400 Seventh Street SW., Washington, D.C., and is open to the public during normal business hours. References to the materials in the docket and other materials are intended as an aid to persons dealing with the voluminous materials in this rulemaking, and may not be exhaustive.

marketing risks in reducing the average CID × N/V of their truck fleets, the impacts of an erroneous marketing judgment by those companies on their long term financial viability is certainly far less than in the case of Chrysler. Therefore, the agency has adopted Chrysler's planned reductions in CID × N/V for its two wheel drive fleet for this rulemaking.

The case for Chrysler's 4 x 4 fleet is somewhat different, however. Chrysler's own projection of its CID × N/V reductions for 1981 indicate that it expected to encounter a shift in its engine offerings (either through its own marketing efforts or through other changes in customer preference) resulting in an *increase* in the sales of its largest engine at the expense of its intermediate displacement engine. The agency recognizes that this projection was made prior to recent gasoline shortages, which has resulted in a serious drop in the demand for large trucks and engines. Now, the agency doubts that Chrysler could effectuate this adverse mix shift without encountering sales resistance, even if the promotion of the sale of fuel inefficient trucks were consistent with the law. Faced with the current trend in the automobile and light truck market, the agency cannot accept Chrysler's unsupported projection of an engine mix shift toward larger displacement engines. By holding its engine mix constant for 4 x 4's (which may prove to be a conservative assumption) and by making minor axle ratio reductions consistent with those planned by the larger manufacturers, Chrysler should be able to make fuel economy improvements beyond those it projected in its petition and equivalent to those projected by the agency in the original 1980–81 rulemaking.

Chrysler also objected to the agency's projected benefit from a given level of CID × N/V reduction. DN–93, p. 12. Chrysler projected a lesser benefit for these reductions, based on an analysis of specific axle ratio changes or engine substitutions. The agency attempted to resolve this issue through a variety of methods, including an assessment of the effect of different axle ratios and engines on Chrysler's current fleet. These analyses indicate that the higher benefit for CID × N/V reductions projected by NHTSA in the original rulemaking on the 1980–81 standards is valid or even conservative. EPA's analysis showed a higher benefit for engine displacement reductions than did NHTSA's but a lower benefit for axle ratio reductions. The agency did not rely on EPA's analysis of the effect of N/V reductions on fuel economy, since that analysis was based solely on passenger car data (reflecting generally lower N/V values). DN–169. GM information also supports the agency's conclusion on this point. DN–81, p.4. Therefore, the agency has used the same relationship between CID × N/V reductions and fuel economy improvements for the analysis of the Chrysler petition that it used in the original rulemaking. However, because of the lower CID × N/V reductions now projected, the agency is reducing its projected fuel economy gain for Chrysler in this area by 0.4 mpg for 4 x 2's and is retaining its projection for 4 x 4's, for the reasons mentioned above.

The agency has also reduced its projection for fuel economy gains from CID × N/V reductions in the case of AM's 4 x 4 fleet (the bulk of that company's production). In the 1980–81 rulemaking, the agency projected that AM could improve its fuel economy by 0.7 mpg through making reductions in the same range of relative magnitude as the other manufacturers, but AM now indicates that it plans no reductions. Although AM indicated in August 1977 that it planned to make CID × N/V reductions of approximately the magnitude projected by the agency in the last rulemaking, it now indicates that such reductions should be made over the course of 3 to 4 years, to permit truck purchasers to become acclimated to the resulting decrease in vehicle acceleration capability. Even accepting AM's argument for the need of a phase-in period, making *no* CID × N/V reductions between 1979 and 1981 could not be justified as the maximum feasible fuel economy improvement on their part. If AM makes only half the CID × N/V reductions the agency projected (and AM previously planned) in the 1980–81 rulemaking, it could still comply with the existing 4 x 4 standard for 1981. AM in fact expects to be able to comply with that standard. AM's zero CID × N/V reduction estimate is also well out of line with the estimates of the rest of the manufacturers. Therefore, the agency concludes that AM can make fuel economy improvements of at least 0.3 mpg through reducing average engine displacement or drive ratios for its 4 x 4 light trucks, enough to permit it to reach the current standard for 1981.

(b) *Engine efficiency improvements.* In previous rulemakings, the agency has, for analytical purposes, considered the related areas of efficiency improvements (i.e., mechanical improvements), optimization of engine calibrations (i.e., those controlling spark advance, exhaust gas recirculation rate, air-to-fuel ratio) and improvements in emission control systems as a single class of technological improvements. In the case of Chrysler in the last rulemaking proceeding, the agency projected that through a combination of these measures, any adverse impacts associated with more stringent emission standards for 1979 could be offset, and a net improvement of 2.4 percent for 4 x 2's and 1.4 percent for 4 x 4's could result. This conclusion was based upon earlier development testing of 1979 vehicles which showed a 3 percent emission standard related fuel economy penalty and Chrysler's own projection that it could achieve fuel economy gains of 5.4 and 4.4 percent for 4 x 2's and 4 x 4's respectively through a combination of engine efficiency improvements. Prior to the proposal of the 1981 standards in December 1977, Chrysler had provided even more optimistic projections of engine efficiency improvements, which the agency relied upon in proposing standards. See 43 FR 12001. Chrysler's most recent estimates indicate that it is continuing to pursue the same engine efficiency improvements identified in the last rulemaking proceeding, but is not obtaining the expected benefits because of unanticipated development problems with the various individual changes.

Much of Chrysler's currently projected engine improvement is categorized as undefined task, i.e., no specific means are identified for achieving the projected gain. The agency is adopting Chrysler's revised estimate of engine efficiency improvements, since it appears to reflect the maximum feasible gains in fuel economy.

The agency is also revising downward its estimates of feasible engine efficiency improvements for the other manufacturers. In the previous rulemaking, NHTSA projected that American Motors (AM) and Ford could offset the effect of more stringent emission standards through a combination of engine efficiency improvements, changes to emission control systems and calibration optimization, and that GM could offset the penalty and obtain a net improvement of 2 percent for both 4 x 2's and 4 x 4's. The projection for GM was based on their submission in the prior rulemaking, and was confirmed GM on two separate occasions, most recently in December 1978. DN–29, p. 3. GM now claims that it was necessary to incorporate the above-mentioned improvements to achieve MY 1979 emissions certification and that a penalty still exists. The projection for AM was based upon their submission in the original rulemaking which stated

that their estimate of the maximum engine efficiency improvements available would be 4 to 5.5 percent for their 4 x 4's. AM claims that they never intended to imply that the improvement could be obtained by 1981, only that it could eventually be achieved. In the case of Ford, that company's submission in the last rulemaking showed through "engine mapping" analyses that the emission penalty could be reduced to approximately 1 percent with optimal engine calibrations (which may require electronic controls) and that certain additional engine efficiency improvements were possible. See 43 FR 12001. The agency found that electronic controls might not be feasible for light trucks by MY 1981 due to inadequate leadtime to implement the full development and reproduction of the required software.

In its January 17, 1979, submission on the Chrysler petition, GM indicated that the agency should revise its position on the question of engine efficiency/optimization changes. DN–82, p. 2. GM subsequently clarified their position, indicating that they were revising their earlier statements that the emission standards penalty could be offset. DN–207. GM indicated that the change in position was due to the fact that their 1979 trucks suffered more than they had anticipated due to the change in emission standards. However, GM had already obtained data on their 1979 truck fleet at the time they confirmed their original position on this question in December 1978. The agency also notes that GM apparently had significant difficulty certifying their 1979 truck fleet for emission compliance, and "last-minute" changes to those trucks were required to permit certification. Ford stated that its engine calibrations are much closer to optimal than in previous years when emission standards changed, due to improvements in Ford's technical capability, but that approximately 1 percent fuel economy improvement is projected by 1981 due to calibration optimization. DN–91, p. 7.

Based on this information, the agency is projecting that GM can achieve a 2 percent fuel economy improvement (from its 1979 levels) due to calibration improvements, engine efficiency improvements, and improvements in emission control systems. This improvement is based on the fact that other manufacturers are projecting fuel economy improvements for engine improvement programs like the ones GM is engaging in (see Rulemaking Support Paper (RSP), section III.A), the difficulties GM had in certifying their trucks for emission purposes in 1979, and the historical trend for improved engine efficiency after the first year in which emission standards are made more stringent (see, e.g., Chrysler's comment on this point, DN–93, p. 5). In the case of Ford, the agency is adopting a 0.2 mpg improvement based on the above Ford reference and other confidential information. These results are 0.3 to 0.4 mpg lower than the projections in the 1980–81 rulemaking for both GM and Ford. The agency is also adopting Chrysler's reduced estimate of engine efficiency improvements, reducing their fuel economy improvement capability by 0.2 to 0.3 mpg. In the case of AM, the agency is eliminating the previously projected 5 percent improvement in fuel economy due to engine modifications (resulting in a 0.7 mpg decrease in average fuel economy). Although the agency is still of the view that a substantial potential for engine efficiency improvements exists for AM's engines, it is not clear that AM possesses the technical capability to implement these improvements by 1981. While the larger domestic manufacturers have either already implemented improvements in this category or plan to do so by 1981, AM's technical resources to make these improvements are quite small in comparison to GM, Ford, and even Chrysler. It should also be noted that giving AM the benefit of the doubt on this question has no effect on the level established for the 1981 4 x 4 standard, since AM projects being able to meet the current standard.

(c) *Weight reduction.* In the 1980–81 rulemaking, the agency projected that the light truck manufacturers could reduce the weights of their vehicles by amounts ranging from approximately 225 to 450 pounds. These conclusions were based upon the agency's own analysis of lightweight material substitution opportunities available to the vehicle manufacturers, responses to special orders issued to numerous suppliers of vehicle components and materials, and the manufacturers' own weight reduction plans.

Based on their responses to the notice on the Chrysler petition, it appears that the manufacturers are currently projecting slightly less weight reduction than did the agency in the 1980–81 rulemaking. Chrysler submitted information explaining why it had reduced its weight reduction projections from those provided in the earlier rulemaking. AM has effected weight reduction since the existing standards were established. This has improved the fuel economy of their 4 x 4 fleet as reflected in the MY 79 data. Beyond MY 79, the new EPA procedures, i.e., new test weights and new truckline definition, offset the weight reduction benefits expected between MY 79–81, according to AM. Consequently, AM expects no fuel economy benefit from weight reduction between 1979 and 1981 for its 4 x 4 fleet (all its commercially available trucks). Ford projects test weight reduction of under 150 pounds by 1981, despite the fact that it will be introducing a new pickup truck in 1980. GM provided information on its new 1981 model year pickup truck, but the agency is unable to determine the exact magnitude of the weight reduction achieved. GM did provide information on the fuel economy improvement the new truck could be expected to achieve, but that improvement was due to several factors in addition to lower weight.

The agency is projecting reduced benefits for weight reduction for Chrysler. In the case of Chrysler's 4 x 2 fleet, the largest part of the reduction is due to the change in the agency's regression equation. In particular, the agency has determined that, for purposes of predicting fuel economy for light trucks, revisions should be made to the regression equation used by the agency to determine the effect on fuel economy of changes in axle or gear ratios, engine displacement, and weight. The new regression equation is based on more extensive fuel economy data for light trucks, which became available for the first time in 1979. It predicts lesser benefits for a given degree of weight reduction than did the previously used equation, and greater benefits for axle ratio and/or engine displacement reductions. In addition, the new equation includes a factor for changes in aerodynamic/rolling resistance characteristics. The inclusion of this factor makes the new equation more consistent with current fuel economy test procedures, which base certain dynamometer settings on these characteristics, while the previous procedures relied solely on vehicle weight. In this analysis of the Chrysler petition, the new equation's reduced benefit for weight reduction has been used, accounting for a portion of the reduction in standard established in this notice. A further description of the new regression equation is contained in the agency's Rulemaking Support Paper on this proceeding. The final projected weight reduction benefit for 4 x 2's agrees with the benefit projected by Chrysler when adjusted for changes in EPA test procedures.

In the case of 4 x 4's, the situation for Chrysler is essentially the same as in

the 4 x 2 case. The projected weight reduction is slightly less than estimated by the agency in the 80–81 rulemaking, however, the benefits are reduced significantly (by 0.3 mpg) primarily because of changes in the agency's regression equation.

For both GM and Ford, the agency is projecting reduced fuel economy benefits (of about 0.3 mpg) from weight reduction for MY 1981, compared to the last rulemaking. While Ford and GM are reducing weight to levels approximating those projected by the agency in the original rulemaking, the use of the agency's new regression equation results in reduced fuel economy benefits. In addition, refinements to the weight simulation used by EPA for fuel economy testing are now expected to reduce previously projected improvements in *measured* fuel economy (naturally, on-the-road improvements are unaffected). Although these refinements make testing more accurate, their effect on measured fuel economy must be accounted for. The agency has also adopted AM's weight reduction plan, reducing their fuel economy improvement capability by 0.3 mpg.

(d) *Possible errors in NHTSA baseline or larger than anticipated effects of changes to emission standards and test procedures.* When the original 1980–81 standards were established, the agency lacked substantial fuel economy data for light trucks in the 6001–8500 pound GVWR range. The reason for the absence of these data was that those trucks were not yet tested for emissions by EPA in a manner which yields fuel economy data. Therefore, the agency used available data (primarily for trucks under 6000 pounds GVWR) and its regression equation to project fuel economy data for the entire 0–8500 pound GVWR fleet. This extrapolation permitted the agency to develop a starting point or "baseline" from which to project future fuel economy improvements for standard-setting purposes. A more complete description of this methodology is contained in Section II of the Rulemaking Support Paper for this petition.

The agency now has EPA approved MY 1979 fuel economy data for light trucks in the 6001–8500 pound GVWR range. Using this data, the agency has attempted to determine the accuracy of the baseline used to set the existing standards. The first step in that process was to account for known changes that occurred between MY 1977 and MY 1979. Thus, the final NHTSA model year 1977 baseline fuel economy for each manufacturer (see RSP–S, Page III–19) must be reduced by 3 percent, the agency's estimate of the fuel economy penalty due to the stricter MY 1979 emission standards. Also, those baselines must then be increased by the known improvments which have been made since MY 1977. Finally, an adjustment must be made for differences between the 1977 and 1979 production mixes of the manufacturers. As a result, given no other changes, the adjusted final MY 1977 baseline should be identical to the MY 1979 baseline derived from the MY 1979 certification data. This is, however, not the case.

The 1977 and 1979 baselines, when adjusted as described above, are not consistent for a combination of reasons. One factor is that the trucks in the 6001–8500 pound GVWR range (for which fuel economy data was extrapolated from the under-6000 pound GVWR fleet) are inherently somewhat different from the lighter trucks and that the agency's extrapolation procedure therefore produced small errors. Another factor is that changes in the 1979 emissions standards and test procedures produced effects on individual manufacturers' fleets which were slightly different in magnitude than the agency-predicted effects. Another factor is random error, due to variation in results produced by the fuel economy test procedures and the relatively small number (statistically speaking) of actual tests conducted for 1979.

The agency has decided to use the 1979 certification data to construct a baseline to determine the fuel economy benefits that will be achieved through the manufacturers implementing the balance of their fuel economy improvements for MY 1981. This decision was based on the availability of actual fuel economy data instead of the partially estimated data used in the last rulemaking and on the shift in agency position on the question of whether the emissions standards penalty would be completely offset by MY 1981. In the 1980–81 rulemaking, the agency used a baseline that did not include such a penalty and assumed that any emission standards-related penalty encountered subsequent to MY 1977 could be overcome by MY 1981. The agency now believes that the penalty will not be overcome totally by the 1981 model year. Therefore, the agency is using the new 1979 baseline which reflects that penalty.

The effect of switching to the 1979 baseline is to alter the baselines for the manufacturers. In the case of AM's 4 x 4 fleet, the use of the 1979 baseline increases the agency's projection of that company's ability to improve fuel economy by 0.2 mpg. In the case of Chrysler's 4 x 2 fleet and GM's 4 x 4 fleet, the effect on fuel economy of this decision is negigible. In all other cases, the decision to use the 1979 baseline for this analysis reduces the agency's fuel economy estimates. This effect is in the range of a 0.3 to 0.4 mpg decrease in fuel economy for Chrysler's 4 x 4 fleet and GM's 4 x 2 fleet, and approximately a full mpg decrease for both Ford's 4 x 2 and 4 x 4 fleet.

(e) *Aerodynamic and rolling resistance reductions.* The agency projected a 0.35 mpg fuel economy improvement for Chrysler's 4 x 4 trucks in 1981 due to improvements in aerodynamic characteristics and the use of radial tires. This improvement was based on Chrysler's own estimate submitted in the 1980–81 rulemaking. In its petition, Chrysler claims that this improvement is no longer attainable. Chrysler is of the view that the physical improvements can be made, but that the changes will not be reflected on current EPA test procedures. These improvements would show up the EPA test only if Chrysler could use the optional "coast-down" procedure for determining dynamometer roadload horsepower. The coast-down procedure would be used by Chrysler if its 4 x 4 trucks could achieve aerodynamic and rolling resistance characteristics superior to the tabulated values established by EPA.

Chrysler indicates that many of the 4 x 4's sold will be equipped with off-road tires and that the EPA will require testing with such tires. Unless radial tires are used on the test, the improvements attributable to both aerodynamics and reduced rolling resistance do not show up, according to Chrysler. However, the agency notes that Chrysler's largest competitors project being able to sell a high enough percentage of radial tires on their 4 x 4 light trucks to permit all 4 x 4 fuel economy test vehicles to employ radial tires. Recognizing that the use of radial tires on vehicles intended for off-road use may involve some compromises in vehicle utility, the agency nevertheless concludes that Chrysler's difficulties in promoting the sale of radial tires on 4 x 4 trucks should be no greater than their larger competitors and that the fuel economy benefits warrant such sale. Therefore, the agency projects that Chrysler can sell enough radial tires on its 4 x 4 trucks in 1981 to obtain the fuel economy benefit it and the agency projected in the 1980–81 rulemaking for aerodynamic and rolling resistance improvements.

(f) *Mix shifts.* The Center of Auto Safety has argued that Chrysler could use marketing strategies to shift its sales mix toward more efficient vehicles, and thereby improve its average fuel economy. DN–90, p. 7. The Center concludes that such a shift is consistent with the law and with the trend toward greater use of trucks for personal (i.e., non-commercial) reasons. The Automobile Owner's Action Council conducted a survey of Chrysler's truck advertising and concluded that the advertising was oriented toward the sale of powerful trucks and toward the sale of trucks as "toys" and as car substitutes. DN–106, p. 3 and attachment. The agency agrees that basing fuel economy standards on the maximum feasible use of marketing measures to promote the sale of fuel efficient vehicles is entirely consistent with the law, at least to the extent such shifts can be accomplished without causing major reductions in sales.

In the case of Chrysler's 4 x 2 trucks, the original 1981 standard-setting analysis was based on an apparent adverse mix shift from the 1976 sales mix used in the NPRM, to the projected 1979 mix supplied by Chrysler, in early 1978. (An adverse mix shift is one which reduces fuel economy.) The effect of this assumption was to reduce Chrysler's projected average fuel economy by 0.2 mpg. In its petition, Chrysler provided sales mix information which the agency concludes reflects a further adverse mix shift between 1976 and 1979 having a fuel economy effect of about the same magnitude.

The agency is using Chrysler's latest mix projection for 1979 as the basis for the revised 1981 standard. This has the effect of reducing Chrysler's projected capability to increase fuel economy of 4 x 2's by 0.2 mpg.

The adverse mix shift impact is not necessarily like shifting from a large vehicle to a small vehicle. The impact here results in part because more Chrysler trucks are being sold with options like air conditioners, step bumpers, etc. These come in a package with a large engine, i.e., the 360 rather than the 318 or the 318 rather the 225. Although Chrysler did eliminate the two largest engines it had available, the 400 and the 440, the net result of all of these changes is a slight reduction in fuel economy. It is important to note that the relative proportion of Chrysler trucks sold with various accessories is still below the general level of accessory sales by the industry. Manufacturers' limits on sales of options such as step bumpers do not help fuel efficiency to a great extent because the resultant weight reductions and attendant fuel economy benefits are relatively small. The major option is air conditioning and its control in a fleet where air conditioning is not as prevalent as it is in the fleets of other manufacturers might tend to drive customers to the competition. As noted in section (a) of this notice, the agency is very reluctant to place Chrysler in a position where it might be compelled to face major marketing risks in order to comply with the light truck fuel economy standards.

(g) *Revision to EPA's "car line" definition for light trucks.* Under EPA's fuel economy test procedures, test vehicles must be equipped with all optional equipment which are expected to appear on more than 33 percent of the trucks within that "car line." A car line was previously defined by EPA very broadly, with all vans constituting a single car line, for example. Thus, many vehicles equipped with options in production were not represented in fuel economy testing by test vehicles having those options. For the 1980 model year, EPA proposes to revise the definition of "car line" to narrow that definition to better assure that vehicles are tested with the options they will have when sold. The proposal is supported by this agency. Chrysler argues that this change will result in reduced fuel economy caused by additional equipment being applied to more of its fleet, thereby reducing average fuel economy.

In the original 1980–81 rulemaking, the agency rejected the manufacturers' arguments claiming that this penalty was unavoidable and permanent, on the ground that the manufacturers could reallocate their offerings (i.e., sell more options on car lines which already exceed the 33 percent criterion and restrict options on the other car lines to less than 33 percent) to offset this penalty. In this rulemaking, this conclusion was universally disputed. Industry sales data indicate that a long-term trend toward higher sales of optional equipment is continuing, making option restriction quite difficult. Ford claimed to know of no method to restrict the option sales, and indicated that attempting to restrict those sales might even produce an adverse fuel economy impact. DN–91, p. 11. Ford provided a breakdown of its option sales by truck line, which showed that the vast majority of the newly created truck lines would be tested at higher weights than the previous truck lines. EPA conceded that due to the option equipment sales trends, option restriction was not a viable alternative for counteracting the effect of the new definition DN–169, p. 2. The "penalty" appears to be as much a symptom of the trend toward higher sales of optional equipment as it is a result of changes in EPA's regulations, and is, therefore, permanent.[2] Thus, the agency is adopting the manufacturers' projected impacts of the 1980 test procedure change.

(h) *Lubricants.* In the 1980–81 rulemaking, the Agency projected that a fuel economy improvement of three percent is achievable through the use of improved lubricants (i.e., friction modified, lower viscosity, synthetic base, or some combination of these methods). Two percent of this improvement was attributed to the use of advanced crankcase lubricants, such as versions of the recently marketed ARCO Graphite, Exxon Uniflo, Mobil 1, and other similar lubricants. The remaining one percent of the improvement was attributed to changes in rear axle lubricants. However, the use of the improved crankcase lubricants is not currently permitted by EPA in that agency's fuel economy testing. That agency has indicated that, before approval is granted for the use of these lubricants in fuel economy testing, it must have evidence indicating that consumers will actually purchase and use these oils in the replacement market. The type of evidence EPA seeks includes information showing that the selling price of the new oils will be competitive with regular lubricants, that the oil will have widespread availability in the marketplace, and that a generic definition of the oils is developed, so that the vehicle manufacturers can specify in owner's manuals that the new oils must be used.

The basis for the agency's conclusion as to the magnitude of the fuel economy benefit resulting from use of the improved crankcase lubricants is set forth in the preamble to the final rule in the 1980–81 rulemaking. 43 FR 12004–5. Data submitted by Exxon, ARCO, and Mobil Oil companies tended to support an improvement figure in the 4 to 5 percent range. More limited data from the vehicle manufacturers generally tended to support fuel economy improvements of 1 to 3 percent. Data from Mobil and GM tended to support a fuel economy improvement in the range

[2] The EPA procedures change would not actually reduce fuel economy. It would correct the error caused by using data from vehicles tested without options to represent trucks that actually are sold with options. This causes a decrease in measured fuel economy, not on-the-road fuel economy, since the new procedure will apply data with options to more of the manufacturer's product line. Increasing the number of production vehicles equipped with options naturally decreases both on-the-road and measured fuel economy. Both effects must be considered in the agency's analysis.

of 1 percent for improved axle lubricants. Ford's data tended to support a fuel economy improvement in the range of 1 percent for manual transmission lubricants. All told, the agency concluded that an improvement of 2 percent for crankcase oils and 1 percent for axle/transmission lubricants in reasonable. However, to encourage further testing of these lubricants and to avoid the necessity of attempting to predict how EPA would ultimately decide the approval question discussed in the previous paragraph, the 1981 standards were established at alternate levels, contingent on this approval.

Only limited additional information was submitted on the lubricants issue in this proceeding. Chrysler's recommendation that the lubricant improvement be deleted from NHTSA's analysis was based on Chrysler's conclusion that EPA would not approve the use of the lubricants (DN–10, p. 2) and tests of 4 cars using the Exxon oil, which showed fuel economy benefit from that oil declining with increasing vehicle mileage. DN–13, Att.L. All Chrysler's earlier data showed an improvement for the advanced oils of about 1 to 3 percent. Ford echoed the concern over the likelihood of EPA approval of the lubricants, and noted that its own test program showed only 0.5 percent improvement for these lubricants (DN–91, p. 8), down from the 12 percent projected in the 1980–81 rulemaking. GM has apparently not changed its plan to delay use of friction modified oils until after 1981, and continues to rely on lower oil viscosity to improve fuel economy. Problems were reported by GM in the areas of increased oil consumption and catalyst deterioration, due to the use of low viscosity lubricants. DN–82, p.3.

The oil companies expressed a range of opinions on this issue, but no additional data. Texaco noted that the percent fuel economy improvement achievable with the new lubricants will vary depending on the friction characteristics of the oil currently used by the vehicle manufacturer, and asserted that their currently sold crankcase oil provides just as good fuel economy as at least one of the advanced lubricants, in on-the-road testing. DN 25. Chevron stated that the agency's projected 2 percent benefit for new crankcase oils is "on the high side," and projected a lesser benefit of 1 to 1.5 percent. Chevron also found a 1 percent fuel economy benefit for axle lubricants, but anticipated that these lubricants would not be widely available by 1981. Cities Service measured a 2.6 percent benefit for their advanced crankcase oil, but also noted that the benefit obtained depends on the base oil used. That company also indicated that it would begin marketing their advanced oil by 1980, and predicted that the necessary approval criteria for fuel economy testing could be met by the January 1, 1980, deadline. DN–149. Sun Oil Company projected an improvement of 2–3 percent for the crankcase oils (DN–150), while Shell's testing of other company's products led it to estimate a 0–2 percent improvement. DN–176. Shell predicted that the EPA approval process and all necessary oil company certification of the oils would not be completed prior to 1982. ARCO reaffirmed its prior statements to the agency, that "significant improvements" in fuel economy are possible with these oils. DN–151.

Against this background (including the more voluminous information submitted as part of the 1980–81 rulemaking), the agency has concluded that the estimated fuel economy benefit for improved lubricants should not be revised. The vast majority of data submitted by the oil companies supports the 2 percent crankcase oil improvement or a greater improvement. Most of the data submitted by the manufacturers prior to the consideration of Chrysler's petition tended to support that figure. Limited additional support for the axle lubricant improvement projected was received from the oil companies, as well. Recent information submitted by the vehicle manufacturers (principally Chrysler and Ford) is relatively limited. The decision to maintain the original lubricant projection is also supported by a contract study performed for NHTSA by the Coordinating Research Council. See DN–187.

With respect to the question of whether all necessary criteria for EPA approval of the lubricants can be satisfied, NHTSA notes that progress is being made toward ultimate approval, and it is premature to speculate that the process cannot be completed in a timely manner. In the NPRM on the Chrysler petition, the agency stated that it was strongly inclined to wait until the January 1, 1980, deadline for EPA approval of these lubricants for fuel economy testing rather than concluding that use of the lubricants will not be approved and removing the lubricant projection from our standard setting analysis now. See 43 FR 58841. The manufacturers should base their fuel economy planning on the assumption that the standards for 1981 will be in effect at the levels which reflect the inclusion of lubricants; those are the standards in effect with the publication of this rule, and those standards will remain in effect unless EPA's approval is not granted.

(i) *Other reductions.* Another problem which Chrysler argues has reduced its 4x2 fuel economy improvement capability relates to reduced automatic transmission parasitic losses. The use of a light duty, more efficient, transmission to accomplish this improvement was not included in the agency's projections which formed the basis for the original 1981 standard, but was included in Chrysler's petition. Although Chrysler was apparently confident that this item could be applied by the 1981 model year at the time it filed its petition, it no longer is sure of success. On April 9, 1979, Chrysler, citing manufacturing and durability problems encountered in testing of the more efficient transmission, stated:

> Presently, there is approximately a 50 percent probability that we will be successful in meeting the production date. If we are successful, we are confident the estimated improvement will be realized on the fleet.

DN–188, p. 2. In its December 6, 1978, submission Chrysler had projected a 1981 introduction of this technology, producing a 0.16 mpg fuel economy benefit.

The contradictory information places the agency in a difficult position to determine maximum feasible fuel economy improvements. Here, as elsewhere, Chrysler has reported development problems of one sort or another. However, the substantiation of those problems is often sketchy. Nevertheless, the current substantial uncertainty about the prospects for success leads the agency to be conservative. Therefore, the agency is not including this transmission improvement in projecting Chrysler's capability for MY 1981.

The agency has deleted its projection in the 1980–81 rulemaking that AM could employ a new, 4 x 4 transfer case in its fleet. This deletion lowers the agency's projection of AM's fuel economy improvement capability for 1981 by 0.2 mpg. NHTSA has deleted this item because of uncertainty as to whether the resulting gain from the use of a new transfer case would show up on fuel economy tests.

The agency's projection of Ford's fuel economy improvement capability has decreased by about 0.2 mpg for 4 x 2's and 0.5 mpg for 4 x 4's due to our changed assessment of Ford's ability to make improvements to automatic transmissions. All of the 4 x 2 reduction and about half of the 4 x 4 reduction is due to the elimination of the projected

use of lock-up torque converters by 1981. The agency projected that the leadtime was adequate to accomplish this improvement by the 1981 model year, but Ford indicates that it plans to implement lock-up torque converters after that date. The remainder of the 4 x 4 reduction is due to changes in Ford's planned usage of overdrive automatic transmissions in that portion of its fleet.

Selecting the Standards

On the basis of the above-described information from AM, Chrysler, Ford and GM, the agency has reassessed their fuel economy improvement potential for the 1981 model year as follows:

	4 x 2	4 x 4
AM	25.6	15.5
Chrysler	17.2	15.5
Ford	[1] 17.4	15.5
GM	17.2	15.8

[1] Ford's own projection is 17.6 mpg, with minimal benefits from lubricant.

The agency has not reassessed the capabilities of the other manufacturers (e.g., Nissan, Toyo Kogyo, Volkswagen, etc.) since only Toyota commented on the proposal. The absence of comments from most foreign manufacturers has been typical of all of the agency's other fuel economy rulemaking and results from those manufacturer's capabilities being well above the standard. The same is true in this rulemaking. See 43 FR 12012.

The values in the above table reflect the agency's judgment of the maximum levels of average fuel economy that the major domestic manufacturers can achieve without having to undertake measures involving substantial marketing risk. As indicated below, the agency concluded in this case that the additional difficulties involved with these measures would outweigh the slight additional fuel economy improvements they would make possible.

The agency also notes that there are often substantial uncertainties present in any rulemaking like the present one in which the government must project future capabilities in an industry to develop and implement technological innovations. For example, the agency projections of technological improvements for MY 81 include undefined spark ignition engine improvements for Chrysler and GM, benefits from improved manual transmissions for GM although the project none, and greater benefits from the use of automatic overdrive transmissions than Ford projects. Improvements beyond those projected by the agency may be possible in such areas as automatic transmission parasitic loss reduction, engine efficiency improvements, mix shifts, and engine displacement/axle ratio reductions. The agency is unable to quantify the uncertainty associated with these improvements. In this type of situation, agencies are required to compare the harm which is likely to result from erring either on the side of too stringent or too lenient standards. *International Harvester Co.* v. *Ruckelshaus*, 478 F.2d 615 (D.C. Cir 1973). The same type of balancing is required under the Act to determine at which point within the range of fuel economy improvement capabilities of the various manufacturers standards should be set. See Senate Report 94–516, at pages 154–5. The potential harm from setting too stringent 4 x 2 standards was found to be the liability of the manufacturers for civil penalties (as high as $40 per truck produced in the case of Chrysler in the current rulemaking, i.e., achieving a CAFE of 17.2 mpg instead of 18.0) or the possibility of a decline in sales if a manufacturer attempts to restrict product availability while his competitors can sell a more complete line of vehicles. The amount of any civil penalty liability could be reduced by the Secretary of Transportation in a variety of circumstances, such as when the liability is due to certain circumstances outside the manufacturer's control or where payment of the full penalty would produce insolvency, bankruptcy, or a substantial lessening of competition within the truck market. In the case of the 4 x 4 standard, all the manufacturers are projected to be capable of achieving compliance with the existing 15.5 mpg standard with relatively low risk (although the risk for Chrysler may well be greater than for GM and Ford), so these concerns do not apply to the same extent to 4 x 4 vehicles.

In the case of the 4 x 2 standard, the risks associated with maintaining the standard at 18 mpg are substantially greater and are faced by all the companies. The 0.8 mpg shortfalls faced by Chrysler and GM could be offset only through significant market restrictions, based on the agency's analysis. Given the magnitude of the risk involved, those companies might well decide to simply pay the resulting $40 per truck civil penalties. In that case, maintaining the 18 mpg standard would not produce any additional petroleum conservation.

The benefits to the nation for Chrysler and the other manufacturers to meet the existing 4 x 2 standard of 18 mpg rather than a standard of 17.2 mpg are the approximately 710 million additional gallons of gasoline saved over the lifetime (128,000 miles) of the 1981 model year trucks. The agency considers that potential energy savings to be significant. However, the risks associated with maintaining the previously established standard has led the agency to decide to reduce the 4 x 2 standard to 17.2 mpg, the maximum achievable levels projected for GM and Chrysler. Since we project none of the major domestic 4 x 2 manufacturers to be able to meet the 18 mpg standard with only moderate risk, the agency cannot conclude that maintaining that standard would necessarily produce any additional energy savings. Should the manufacturers attempt to meet the 18 mpg standard through product restrictions, those actions would appear to involve substantial risk, due to the substantial fuel economy shortfalls involved. Because of the commercial uses for which many of these vehicles are applied, any marketing action which affected the trucks' utility in a substantially adverse manner could directly affect sales levels, and thereby industry profitability and employment.

A point made by the Department of Energy, and supported by EPA (DN–169) and the Center for Auto Safety (DN–90), is that standards should not be keyed to the "least capable" manufacturer, given the civil penalty/credit mechanism in the law and Conference Report language which indicates that "industry-wide" considerations must be taken into account. See 43 FR 58841, December 18, 1978 (the proposed rule in this proceeding). GM, on the other hand, argues that fuel economy standards must be set at levels achievable by all. DN–82, Att. III. Chrysler argues that the issue of the "least capable manufacturer" is irrelevant, since the problems raised by that company are industry-wide, not just a problem facing one company. DN–93, p. 1. The agency has repeatedly stated in past rulemaking that fuel economy standards need not be set at the maximum achievable fuel economy level of the "least capable" manufacturer.

In the case of the 4 x 2 standard, the agency's analysis demonstrated no single "least capable" manufacturer, with all the major domestic manufacturers falling within a very narrow fuel economy range and a majority of the domestic fleet (GM and Chrysler) being projected at the same level, 17.2 mpg. Thus, the "least capable" manufacturer issue is not implicated with respect to the 4 x 2

standard. Nor is the issue implicated with respect to the 4 x 4 standard, since that standard could not be set at a higher level at this time, due to the 18-month leadtime rule of section 502(f) of the Act.

Therefore, the agency is reducing the 1981 model year light truck fuel economy standard for 4 x 2's to 17.2 mpg, but is denying Chrysler's request to lower the 4 x 4 standard.

Other comments and impacts of this decision

The comments of the Department of Energy are of special significance in NHTSA's fuel economy rulemaking, given its statutory role. Under sections 502 (h) and (i) of the Act, NHTSA must consult with DOE in carrying out fuel economy related responsibilities, and must provide DOE with advance notice and an opportunity to comment prior to issuing any proposed or final standards. In the case of proposed standards, NHTSA is required to discuss any "unaccommodated" comments of DOE in the **Federal Register** notice. Since NHTSA did not propose specific standards in this proceeding, but rather issued a "description of the subject and issues involved" within the meaning of 5 U.S.C. 533(b)(3), it is appropriate to address DOE's comments in this notice.

DOE is concerned that a decision to reduce the light truck fuel economy standards constitutes a very unforunate lost energy conservation opportunity, the significance of which is magnified by the "large and *growing* demand for light duty trucks, increasing cost of imported oil, and pressure that a revision of the 1981 standards could also lead to lower standards in later years." DN–95, p. 1. NHTSA believes that the energy loss resulting from this decision is outweighed by the risks faced by the vehicle manufacturers, consistent with the statutory requirement that standards be set at the maximum feasible level.

In particular, DOE is concerned that this decision may establish a precedent that standards will be reduced every time a manufacturer's technology development program encounters a problem, thereby eliminating "any effective forward looking standard setting activity by DOT." Supra, p. 2. Several of the agency's reduced fuel economy improvement projections have been revised to conform with manufacturers' plans, but only to reflect more recent information about capability. To the extent these development problems cannot be overcome by the model year in which the standards will apply, these problems limit the fuel economy improvement capability of the manufacturers, and, therefore, limit the levels at which standards can be set. These levels reflect the agency's current assessment of the maximum feasible fuel economy for each manufacturer, based on the leadtime from the issuance of the original 1981 standards. The agency does not intend to allow every minor development program problem encountered by the manufacturers to trigger a favorable consideration of a petition to reduce fuel economy standards, but that is not the case here as the problems are industry-wide.

DOE also argues that a revision to the fuel economy standards at this late date will penalize those manufacturers which have made plans and expended resources to meet the previous standards. The record of this proceeding indicates a similarity of capability of the various major domestic manufacturers. Judging by the comments of Ford and GM, those companies are facing the same type of problems that Chrysler confronts and will not be able to achieve fuel economy levels significantly higher than Chrysler's. Indeed, Ford and GM support a reduction in the standards.

The Notice published by the agency concerning this petition (43 FR 58840) raised the question of the effect of a reassessment of the Model Year 1981 standards on the standard for limited product line light trucks. In the response to that notice, the only manufacturer subject to that standard, International Harvester, said that its 1979 projected corporate average fuel economy is 12.6 mpg or 1.4 mpg below the MY 1980 standard. DN–86. IH added that it expected "a considerable increase in fuel economy due to exhaust emission calibration optimization in MY 1980." Since MY 1979 is the first year since the early 1970's that IH has had to comply with light duty truck emissions standards, the agency agrees with IH that substantial improvements are likely. IH has testified before Congress that it expects to meet the current 1980 and 1981 fuel economy standards. Therefore, the agency has not revised the limited product line standard.

Manufacturers have informed the agency that one of the methods they plan to use to improve the fuel economy of the currently regulated fleet of 0–8500 pounds GVWR is the rerating of vehicles above 8500 pounds GVWR. These actions do not contribute to fuel savings for the Nation. For this reason, the agency intends to monitor closely the manufacturers' production and marketing plans to determine the actual extent of this shifting beyond 8500 GVWR. These activities may lead to a determination by the agency to set fuel economy standards for such vehicles after model year 1981.

The environmental impacts of this decision are discussed in the Environmental Impact Statement prepared in conjunction with the establishment of the original 1981 standards. Copies of that document are available from the individual listed as the "information contact" at the beginning of this notice. The agency has concluded that a complete revised environmental impact statement need not be prepared for this proceeding, since the original document considered the impacts of a range of standards which encompasses both the original decision and the decision announced herein. The most significant environmental impact associated with this decision is the additional petroleum consumption, with attendant increases in petroleum production, transportation, refining, and transfer related environmental impacts. If the existing model year 1981 standards are not changed, the agency projects a savings of 2.85 billion gallons of gasoline, compared to the 1980 standard. The standards established herein will save 2.14 billion gallons.

A Final Regulatory Analysis of the economic consequences of this decision has been prepared in accordance with section 10.f of the Department's Procedures for Improving Government Regulations, 44 FR 11034 *et seq.* This analysis considered a range of fuel economy standards between the existing standards and those requested by Chrysler. The establishment of 17.2 mpg as the fuel economy standard for 4 x 2 vehicles decreases gasoline savings by 0.7 billion gallons over the life of the 1981 fleet. Compared to the 1980 standards, the revised 1981 standards will save about 2 billion gallons of gasoline, at a cost of $153 million in capital investment and $49 per vehicle retail price increase. Consumers will achieve a net savings of $255 per vehicle as a result of the 1981 standards (compared to the 1980 standards). Copies of this analysis are available from NHTSA's Office of Plans and Programs, Room 5212 of the Nassif Building, Washington, D.C. 20590.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976 and 43 FR 8525, March 2, 1978)

Issued on June 20, 1979.

Joan Claybrook,

Administrator.

PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS

In consideration of the foregoing, 49 CFR Chapter V is amended by changing the title of Part 533 to "Light Truck Fuel Economy Standards" and by revising the 1981 model year standards set forth in the table in § 533.5(a) as follows:

§ 533.5 Requirements.

(a) * * *

Model year	2-wheel drive light trucks		4-wheel drive light trucks		Limited product line light trucks
	Captive imports	Other	Captive imports	Other	
1979	.....	17.2	.....	15.8	.....
1980	16.0	16.0	14.0	14.0	14.0
1981	[1]17.2	[1]17.2	[1]15.5	[1]15.5	[1]15.0

[1] There standards are 0.5 mile per gallon less if, by January 1, 1980, the Environmental Protection Agency has not fully approved improved lubricants for use in fuel economy testing.

* * * * *

[FR Doc. 79-19647 Filed 6-20-79; 2:06 pm]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 44, No. 123
Monday, June 25, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1004]

[Docket No. AO-160-A56]

Milk in the Middle Atlantic Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider order changes proposed by Pennmarva Dairymen's Federation, Inc. and Eastern Milk Producers Cooperative Association, Inc. The key proposals would institute a late-payment charge on overdue payments by handlers to producers, cooperative associations or the market administrator, increase the rate of funding for the advertising and promotion program and allow any producer who did not wish to participate in that program to request and receive a refund any month of the year. Proponents contend that the requested order changes would increase compliance with the order's payment provisions and provide for a more effective advertising and promotion program.

DATE: July 10, 1979.

ADDRESS: Holiday Inn—Center City, 1800 Market Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTAL INFORMATION: Notice is hereby given of a public hearing to be held at the Holiday Inn—Center City, 1800 Market Street, Philadelphia, Pennsylvania 19103 beginning at 9:30 a.m., on July 10, 1979, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Middle Atlantic marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7. U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Pennmarva Dairymen's Federation, Inc., on behalf of Capitol Milk Producers Cooperative, Inc., Inter-State Milk Producers' Cooperative, Inc., Maryland Cooperative Milk Producers, Inc., and Maryland & Virginia Milk Producers' Association, Inc.

Proposal No. 1

Amend the funding rate for the advertising and promotion program from a 7 cents per hundredweight assessment to a rate determined yearly by multiplying the average of the monthly weighted average prices for the six-month period ending September 30 by one percent and rounding to the nearest full cent. The resulting figure would be the funding rate for the following calendar year. This proposal would require conforming changes in several sections of the order.

Proposed by Pennmarva Dairymen's Federation, Inc., on Behalf of Lehigh Valley Cooperative Farmers and the Four Cooperative Associations Listed for Proposal No. 1.

Proposal No. 2

Add a new § 1004.78 as follows:

§ 1004.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1004.71, 1004.73, 1004.76, 1004.77, 1004.85, or 1004.86 shall be increased 1 percent beginning on the day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(a) The amount payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously computed pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due: *Provided,* That for the purpose of this section, unpaid obligation means monies not received in the office of the market administrator on or before the date such obligation is due and monies not received by the association or producers on the dates required in § 1004.73.

Proposal No. 3.

Amend § 1004.72 to provide that payments to handlers from the producer settlement fund occur on or before the 16th day after the end of each month.

Proposed by Eastern Milk Producers Cooperative Association, Inc.

Proposal No. 4

Amend the funding rate for the advertising and promotion program from a 7 cents per hundredweight assessment to a rate determined by the market administrator as soon as possible after October 15 by multiplying the average of the monthly weighted average prices for the twelve-month period ending September 30 by three-quarters of one percent and rounding to the nearest whole cent. The resulting figure would be the funding rate for the following calendar year. This proposal would require conforming changes in several sections of the order.

Proposal No. 5

1. Amend § 1004.120(b) and (c) as follows:

§ 1004.120 Procedure for requesting refunds.

* * * * *

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first fifteen days of any month for milk to be marketed during the remainder of the calendar

year beginning on the first day of the current month, or until said refund request is cancelled by the producer during said calendar year.

(c) A diary farmer who first acquires producer status under this part after the fifteenth day of any month may, upon application filed with the market administrator pursuant to paragraph (a) and (b) of this section, be eligible for refund on all his marketings against which an assessment is withheld for the period from the date of his first marketing as a new producer through the end of such calendar year. This paragraph also shall be applicable to all producers during the period between the effective date of this paragraph and the beginning of the first full calendar month for which the opportunity exists for such producer to request a refund pursuant to paragraph (b) of this seciton.

2. In § 1004.121 revise paragraphs (a), (b) and (c), redesignate paragraphs (c) and (d) as paragraphs (d) and (e), and add a paragrpah (f) as follows:

§ 1004.121 Duties of the market administrator.

* * * * *

(a) As soon as possible after October 15 of each year, compute the rate of withholding by multiplying the simple average of the monthly weighted average prices for the 12-month period ending September 30 by three-quarters of one percent (.0075) and rounding the result to the nearest whole cent. This rate shall apply during the ensuing calendar year.

(b) As soon as possible after the rate of the withholding is computed pursuant to paragraph (a) of this section, notify in writing each producer currently shipping milk to handlers regulated by this part and any new producer who subsequently commences such shipments, of the withholding rate and the procedure by which refunds may be requested pursuant to § 1004.120.

(c) Set aside the amounts subtracted under § 1004.61(a)(3) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amounts held in reserve to cover refunds pursuant to paragraph (c)(4) of this section; payments, if any, to producers or states pursuant to paragraph (c)(2) and (3) of this section; and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) To producers, a refund of the amounts of mandatory checkoff for advertising and promotion programs required under authority of state law applicable to such producers, but not in amounts that exceed the rate established pursuant to paragraph (a) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1004.61(a)(3).

(3) To any state after the end of each month, a payment on behalf of any producer for which a specific authorization has been received pursuant to section 1004.120(d), but not in an amount that exceeds the rate established pursuant to paragraph (a) of this section for such producer's milk pooled for which deductions were made pursuant to § 1004.61(a)(3) for such month.

(4) To each producer, on or before the twentieth day of each month, a refund for which the producer has made application pursuant to § 1004.120. Such refund shall be at the rate determined pursuant to paragraph (a) of this section for such producer's milk for which deductions were made pursuant to § 1004.61(a)(3) for the second preceding month, less the amount of any refund otherwise made to, or on behalf of, the producer pursuant to paragraph (b)(2) and (3) of this section.

* * * * *

(f) Annually, conduct a referendum to determine representation on the Agency pursuant to section 1004.113(c).

Proposal No. 6

Add a new § 1004.78 as follows:

§ 1004.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to § 1004.71, 1004.73, 1004.76, 1004.77, 1004.85, or 1004.86 shall be increased 1 percent beginning on the first day after the due date of such obligation and on the same day of each succeeding month until such obligation is paid. For the purpose of this section, any remittance received after said due dates in any month in an envelope that is postmarked not later than the second preceding day of the month shall be considered to have been received by the due date of that month for such obligation.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 7

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 710, Alexandria, Virginia 22313, or from the Hearing Clerk, Room 1077-South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Middle Atlantic Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on June 20, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-19693 Filed 6-22-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

[7 CFR Part 1430]

Price Support Program for Milk; Terms and Conditions of 1979-80 Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposal announces that the Secretary of Agriculture is considering establishing the level of price support for milk for the 1979-80 marketing year, beginning October 1, 1979 and the prices and terms of purchase by CCC of butter, cheese, and nonfat dry milk. The Secretary may also consider other matters pertaining to the milk support program.

DATE: Comments must be received on or before August 20, 1979.

ADDRESS: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South

Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: S.E.T. Bogan (ASCS) 202–447–3571.

SUPPLEMENTARY INFORMATION: Section 210(c) of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, provides as follows:

> The price of milk shall be supported at such level not in excess of 90 percent nor less than 75 percent of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. * * * Such price support shall be provided through purchases of milk and the products of milk.

Section 201(d) of the Act, as added by the Food and Agriculture Act of 1977, provides as follows:

> Effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. * * * Any adjustment under this subsection shall be announced by the Secretary not more than 30-days prior to the beginning of the period to which it is applicable.

The Food and Agriculture Act of 1977 increased the minimum level of support from 75 to 80 percent of parity through March 31, 1979. Accordingly, on October 1, 1978, the support price was set at 80 percent of parity, which was $9.64 per hundredweight for milk of 3.5 percent fat content, or $9.87 for milk of national average fat content (3.67%). On April 1, 1979, the support price was increased to $10.51 per hundredweight for milk of 3.5 percent fat content, or $10.76 for milk of 3.67 percent fat content. This support price was 77.8 percent of parity as of April 1, and 87.3 percent of parity as of October 1, 1978, the beginning of the marketing year. The increase reflected a 9 percent increase in the parity index (index of prices paid by farmers for commodities and services, interest, taxes and wage rates) from October 1, 1978 to April 1, 1979.

The minimum level of price support for manufacturing milk will be 75 percent of the parity price, as of the beginning of the marketing year (October 1, 1979), as determined pursuant to the Act unless legislation continuing the 80 percent minimum now before Congress is enacted. The support price announced as of October 1, 1979 will be adjusted effective April 1, 1980, to reflect the change in the parity index as required by the Food and Agriculture Act of 1977. Based on the parity data as of May 31, 1979, 75 percent of the parity equivalent price for manufacturing milk was $10.32 per hundredweight for milk of 3.5 percent milkfat content. The 75 to 90 percent of parity range in the support price as of October 1, 1979, is projected to be $10.52 to $12.62 per hundredweight for milk of 3.5 percent milkfat content.

Milk production October 1978–April 1979 was 69.6 billion pounds, about the same as a year earlier. Total commercial disappearance increased about 2 percent above last year during the first half of the 1978–79 marketing year. Net purchases (purchases, minus sales for unrestricted use) of dairy products by Commodity Credit Corporation (CCC) under the support program between October 1, 1978 and June 8, 1979 were 46 million pounds of butter, 9 million pounds of cheese and 98 million pounds of nonfat dry milk compared with 145 million pounds of butter, 36 million pounds of cheese and 229 million pounds of nonfat dry milk during the same period a year earlier.

Proposed Rule

The Secretary of Agriculture is considering establishing the level of price support for milk for the 1979–80 marketing year, the prices and terms of purchase by CCC of cheese, butter, and nonfat dry milk, including the value of whey used in calculating the purchase price of cheese; the yields of cheese, butter, and nonfat dry milk per hundredweight of milk; the manufacturing margins used in calculating the purchase prices of cheese, butter and nonfat dry milk; the allocation of any change in the support price for milk between butter and nonfat dry milk in setting their purchase prices; whether to change the purchase price differential between fortified and non-fortified nonfat dry milk; the level of the sales prices of CCC-owned dairy products; and other matters pertaining to the milk support program. Prior to making any of the foregoing determinations, consideration will be given to any data, views and recommendations with regard to the determinations which are submitted in writting to the Director, Procurement and Sales Division. In order to be assured of consideration, all submissions must be received by the Director not later than August 20, 1979. All written submissions made pursuant to this notice, will be made available for public inspection at the Office of Director, Room 5741 South Building, during regular business hours (8:15 a.m.–4:45 p.m.).

This notice of proposed rulemaking is issued under authority of Section 201 (c) and (d) of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1446): and Sec. 4 and 5 of the Commodity Credit Corporation Act, as amended (62 Stat. 1070, as amended; (15 U.S.C. 714b and 714c)).

Note.—This proposal has been determined significant under USDA criteria implementing Executive Order 12044, "Improving Government Regulations." An approved Draft Impact Analysis is available from the Director, Procurement and Sales Division, ASCS, USDA, Room 5741 South Building.

Signed at Washington, D.C., on June 15, 1979.

Roy Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-19643 Filed 6-22-79; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

[10 CFR Part 456]

[Docket No. CAS-RM-79-101]

Residential Conservation Service Program; Comment Period Extension and Decision To Develop an Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Extension of Comment Period and Notice of Decision to Develop an Environmental Impact Statement.

SUMMARY: On March 19, 1979 at 44 FR 16546 the Department of Energy published a notice of proposed rulemaking relating to the Residential Conservation Service Program. This document announces an extension of time in which to comment on the proposed rules and also that an environmental impact statement (EIS) will be developed.

DATE: The general comment period for the proposed rule, draft regulatory analysis, and the draft urban and community impact assessment will be reopened on the day the notice of availability for the draft EIS is published in the **Federal Register** to extend until 45 days after such publication.

ADDRESS: Send comments to Margaret W. Sibley, Office of Conservation and Solar Applications, 20 Massachusetts Avenue, NW, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

James R. Tanck, Director, Residential Conservation Service Program, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts

Avenue, NW, Washington, D.C. 20585, (202) 376–4708.

Margaret W. Sibley, Office of Conservation and Solar Applications, 20 Massachusetts Avenue, NW, Washington, D.C. 20585, (202) 376–1651.

SUPPLEMENTARY INFORMATION: On the basis of the Department of Energy's (DOE) environmental analysis to date, DOE has decided to develop an Environmental Impact Statement (EIS) on the Residential Conservation Service Program. A draft EIS is scheduled to be available for public comment by the middle of July. Notice of its availability will be published in the **Federal Register**. The public comment period for the draft EIS will close 45 days after such notice of availability.

A notice was published in the FR Doc. 79–14495 in the Wednesday, May 9, 1979 issue of the **Federal Register**, Vol. 44, No. 91, p. 27300, extending the comment period for the proposed rule to June 11, 1979 and until July 9, 1979 for the draft regulatory analysis and the draft urban and community impact assessment. Those dates are no longer effective. The general comment period for the proposed rule, draft regulatory analysis, and the draft urban and community impact assessment will be reopened on the day the notice of availability for the draft EIS is published in the **Federal Register** to extend until 45 days after such publication. A public hearing will be held to obtain oral comments on the EIS, the draft regulatory analysis, and the draft urban and community impact assessment. The date, time, and place of this hearing will be noticed in the **Federal Register** at a later date.

Notice is also given that the draft urban and community impact assessment is now available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A copy may be purchased for the cost of reproduction by contacting: Mr. James Tanck, Director, Residential Conservation Service Program, Office of Assistant Secretary for Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts, Avenue, NW, Washington, D.C. 20545 (202) 376–4708.

Issued in Washington, D.C., on June 15, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-19697 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

[13 CFR Part 540]

Regional Action Planning Commissions Operations; Administration; Notice of Correction

AGENCY: The Special Assistant for Regional Development, Office of the Secretary, Department of Commerce.

ACTION: Proposed Rule Correction.

SUMMARY: On June 7, 1979, the Department of Commerce published proposed rules on the Regional Action Planning Commissions (44 FR 32958). The document incorrectly stated the proposed regulations allowing waiver of OMB Circular requirements applicable to recipients of financial assistance from a Commission (proposed 13 CFR 540.209 (b), (c)). This notice corrects that error.

DATES: Comments must be received on or before August 6, 1979.

ADDRESS: Send comments to: Office of Regional Development, Room 2092, Main Commerce Building, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Lollis, Office of Regional Development, Room 2092, U.S. Department of Commerce, Washington, D.C. 20230. Telephone (202) 377–5203.

Proposed § 540.209 (b) and (c) as found printed on 44 FR 32968 are hereby corrected to read as follows:

§ 540.209 Administrative requirements for recipients of Commission assistance.

* * * * *

(b) The Federal Cochairman, with the prior approval of the Secretary and the Director of the Office of Management and Budget (OMB), may grant exceptions from the requirements of the attachments listed in (a)(1) and (a)(2) of this section when an exception is in the best interests of the Commission or necessary to prevent undue hardships or inequity on a grantee or contractor.

(c) If a Commission wishes to adopt a form which is a substitute for or is a deviation from a form specified in the attachments listed in paragraph (a) of this section, the Federal Cochairman shall secure the prior approval of the Director of OMB in writing, with a copy to the Secretary, before the form is put into effect or use.

* * * * *

Lawrence O. Houstoun, Jr.,

Special Assistant to the Secretary for Regional Development.

[FR Doc. 79-19674 Filed 6-22-79; 8:45 am]

BILLING CODE 3510-17-M

DEPARTMENT OF THE TREASURY

Secret Service

[31 CFR Part 13]

Procedures for Providing Assistance to State and Local Governments in Protecting Foreign Diplomatic Missions

AGENCY: Department of the Treasury.

ACTION: Proposed regulations.

SUMMARY: This document amends and clarifies the Department of the Treasury Regulations which implement Pub. L. 94–196. Pub. L. 94–196 provides for the supplying of Federal assistance to state and local governments in protecting foreign diplomatic missions under certain specified conditions. The modifications remove certain unnecessary impediments to the exercise of the reimbursement authority permitted under that statute. This document also substitutes the name United States Secret Service Uniformed Division for the name Executive Protective Service pursuant to Pub. L. 95–179.

DATE: Written comments must be received by July 25, 1979.

ADDRESS: Send comments to Assistant Secretary (Enforcement and Operations) Department of the Treasury, Washington, D.C. 20220. Attention: Special Assistant.

FOR FURTHER INFORMATION CONTACT: J. Robert McBrien, Special Assistant, Office of the Assistant Secretary (Enforcement & Operations) Department of the Treasury, Washington, D.C. 20220; (202–566–8534).

SUPPLEMENTAL INFORMATION: This document revises Department of the Treasury regulations located in Title 31, Code of Federal Regulations, Part 13 which implements Pub. L. 94–196. Part 13 is being amended to clarify certain areas of ambiguity and to remove certain impediments to reimbursement which are not required by Pub. L. 94–196. Specifically, modifications are being made in the following areas:

a. The definition of "extraordinary protective need" is redefined to include, in certain cases, potential violence

instead of actual violence, and to include confrontations between, or threats of violence from, groups other than the nationalist or terrorist groups permitted under current regulations.

b. An extraordinary protective need entitling a state or local government to Federal assistance in providing protection to foreign diplimatic missions may now clearly arise from a specific international event.

c. Reimbursement would now be authorized for protection of foreign diplomatic missions, including consular offices, if the need for such protection constitutes an extraordinary protective need and arises from a visit of a foreign dignitary or official of the same country as the foreign diplomatic mission to participate in an activity of the international organization.

d. The ability to reimburse for protection at a mission to an international organization where required by extraordinary protective need even where there is no visit by a foreign dignitary is more clearly stated.

e. Reimbursement would now be permitted, for special arrival and departure security assignments at a qualified mission, as well as for additional personnel assignment costs at an otherwise qualified mission if the vulnerability of the mission is increased due to a particular visit.

f. Costs for establishing protective perimeters around an otherwise qualified location, but outside of the immediate area, would be made reimbursable when they are shown to be necessary for the adequate protection of the qualified location.

g. Administrative and overhead costs would be made reimbursable, for the first time, as either a flat percentage of the total extraordinary protective need cost or on a dollar-for-dollar basis, whichever the requesting government selects.

h. The name United States Secret Service Uniformed Division would be substituted throughout the Part for the name Executive Protective Service.

i. Requests for reimbursement submitted before the effective date of these amended regulations may be resubmitted in order for the requesting government to seek any additional reimbursements permitted under the amendments as finally promulgated. Resubmissions should identify clearly the expenditures for which additional reimbursement is sought.

DRAFTING INFORMATION: The principal authors of this document were Shanley Keeter, Attorney-Adviser, Office of the General Counsel and J. Robert McBrien, Special Assistant to the Assistant Secretary (Enforcement & Operations), Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, D.C. 20220. However, other persons participated in developing the regulations, both on matters of substance and style.

Authority: This notice of proposed rulemaking is issued under the authority of 3 U.S.C. 202, 208 (1976), as amended by Pub. L. 95–179 (91 Stat. 1371); and 5 U.S.C. 301.

PART 13—PROCEDURES FOR PROVIDING ASSISTANCE TO STATE AND LOCAL GOVERNMENTS IN PROTECTING FOREIGN DIPLOMATIC MISSIONS

It is proposed that Part 13 be amended as follows: Section 13.2, Definitions, is amended by revising the definitions of the terms "Assistant Secretary" and "extraordinary protective need" to read as follows:

§ 13.2 Definitions.

(a) The term "Assistant Secretary" means the Assistant Secretary of the Treasury (Enforcement and Operations).

(b) The term "extraordinary protective need" means a need for protection requiring measuring reinforcements of police personnel or equipment, or both, significantly beyond the ordinary deployment of the State or local government, arising out of actual or potential violence related to: (1) Confrontations between nationalist or other groups, (2) threats or acts of violence by terrorist or other groups, (3) a specific diplomatic event or visit, or (4) a specific international event. Such a need is not occasioned by the day-to-day protection of foreign diplomatic missions.

It is further proposed that § 13.3 be revised to read as follows:

§ 13.3 Eligibility to receive protection.

(a) Protection, as determined by the Assistant Secretary, will be provided by the United States Secret Service Uniformed Division, pursuant to section 202 of title 3, U.S. Code, as amended by Pub. L. 94–196, only to foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) where there are located twenty or more such missions, as determined by the Secretary of State, which are headed by full time officers. According to present State Department figures, the following metropolitan areas have 20 or more such foreign diplomatic missions: Chicago, Houston, Los Angeles, Miami, New York City, New Orleans, and San Francisco.

(b) Protection will be provided in the metropolitan areas described in paragraph (a) of this section only if:

(1) The affected metropolitan area requests such protection;

(2) The Assistant Secretary determines that an extraordinary protective need exists; and

(3) The extraordinary protective need arises in association with a visit to or occurs at: (i) A permanent mission to an international organization of which the United States is a member, (ii) an observer mission invited to participate in the work of an international organization of which the United States is a member, or (iii) in the case of a visit by a foreign official or dignitary to participate in an activity of an international organization of which the United States is a member, a foreign diplomatic mission, including a consular office, of the same country as the visitor.

(c) Protection may be extended at places of temporary domicile in connection with a visit under paragraph (b) of this section.

(d) Where an extraordinary protective need exists, protection may be extended to missions as described in § 13.3(b) (3) (i) and (ii) whether or not associated with a visit by a foreign dignitary.

It is further proposed that § 13.4 be revised to read as follows:

§ 13.4 Requests for protection.

(a) Requests for protection shall be made to: Assistant Secretary (Enforcement and Operations), Department of the Treasury, Washington, D.C. 20220. Each government requesting the protection authorized pursuant to section 202 of title 3, U.S. Code, as amended by Pub. L. 94–196, shall submit an application describing the extraordinary protective need. Applications made pursuant to this section shall be submitted to the Assistant Secretary 14 days before the extraordinary protective need arises. In association with a visit, the application shall include the name and title of the visiting foreign official or dignitary, the country he represents, and the name and location of the international organization or mission he will be visiting. The application shall also include if available, the temporary domicile of the visiting official or dignitary and his schedule, including date and times of arrival and departure from the United States. If the extraordinary protective need occurs at a permanent mission to an international organization of which the U.S. is a member or an observer mission invited to participate in the work of such

organization, or if another foreign diplomatic mission of the country qualifies under § 13.3 (b) or (d), the application shall include the name and location of the mission. State and local governments shall also indicate on the application whether they desire to provide the protection. In order to assist the Assistant Secretary in determining whether to utilize the United States Secret Service Uniformed Division to meet the extraordinary protective need, or to utilize, with their consent, the services, personnel, equipment, and facilities of the State or local government, or both, the application must include an estimate of the approximate number of personnel, by grade and rank, the services, equipment, and facilities required, along with an estimate of the cost of such personnel, services, equipment and facilities. This application must be submitted in a format consistent with that illustrated in Appendix I of this part.

(b) Upon receipt of a request for protection pursuant to paragraph (a) of this section and for the purposes of reimbursement pursuant to §§ 13.6 and 13.7, the Assistant Secretary will determine whether an extraordinary protective need exists. In making his determination, the Assistant Secretary may consult with appropriate Federal, State and local government agencies.

It is further proposed that § 13.5 be revised to read as follows:

§ 13.5 Utilization of the services, personnel, equipment, and facilities of State and local governments.

The Assistant Secretary may decide to utilize, on a reimbursable basis, the services, personnel, equipment, and facilities of State and local governments of the affected metropolitan area desiring to provide protection, or he may utilize the United States Secret Service Uniformed Division, or both. If the United States Secret Service Uniformed Division is utilized to meet the extraordinary protective need, the governments of the affected metropolitan area will not be reimbursed. If the Assistant Secretary decides to utilize, with their consent, the services, personnel, equipment, and facilities of such State and local governments to meet the extraordinary protective need, he will so notify the government as soon as possible after receipt of a request for protection made pursuant to § 13.4.

It is further proposed that § 13.6 be amended by revising paragraph (a) to read as follows:

§ 13.6 Reimbursement of State and local governments.

(a) State and local governments providing services, personnel, equipment, or facilities to the affected metropolitan area pursuant to § 13.5 may forward to the Assistant Secretary a bill for reimbursement for the personnel, equipment, facilities, and services utilized in meeting the extraordinary protective need. The bill shall be in accordance with the format in Appendix II of this part. The Assistant Secretary will reimburse only those incemental costs directly related to the extraordinary protective need including personnel and equipment costs resulting from assignments made to assist in providing security at an otherwise qualified location in connection with the arrival, departure or during the visit of a foreign dignitary. Reimbursable costs will also include incremental costs for establishing protective perimeters outside of a qualified location when it is clearly established to the satisfactory of the Assistant Secretary that such assignments were necessary to assure the safety of the qualified location. Overhead and administrative costs associated with an extraordinary protective need are reimbursable as either a flat 5 percent of the total extraordinary protective need cost, or, if such costs can be clearly segregated from routine police costs, on a dollar-for-dollar basis. The jurisdiction seeking such reimbursement may select either method but may not use both. For the purposes of reimbursement the Assistant Secretary will in all cases determine when the extraordinary protective need began and terminated.

* * * * *

It is further proposed that § 13.7 be amended by revising paragraph (a) to read as follows:

§ 13.7 Reimbursement when the Assistant Secretary makes no determination to utilize State and local government services, personnel, equipment and facilities.

(a) Where events require the State and local government of the affected metropolitan area to provide protection to meet an extraordinary protective need otherwise qualifying for reimbursement, such reimbursement may be made even if the provisions of §§ 13.4 and 13.5 have not been complied with fully. In such circumstances the provisions to § 13.6 shall apply.

* * * * *

It is proposed to revise the instruction portion of Appendix I to read as follows:

Appendix I—Form of Request for Assistance

I hereby request assistance from the Department of the Treasury pursuant to section 202 of Title 3, U.S. Code, as amended by Pub. L. 94-196. This assistance is needed to enable the affected metropolitan area of _____ to meet an extraordinary protective need, which is expected to arise on _____ (date).

The nature of the extraordinary protective need prompting this request is as follows:

(If in association with a visit, include the name and title of the visiting foreign official or dignitary, the country represented and the name and location of the international organization or mission to be visited. The temporary domicile of the visiting official or dignitary and his schedule, including dates and times of arrival and departure from the United States, if available, must also be included. If the extraordinary protective need occurs at a permanent mission to an international organization of which the United States is a member or at an observer mission invited to participate in the work of the organization, the applications shall include the name and location of the mission. If the extraordinary protective need occurs at a foreign diplomatic mission, including a consular office, in conjunction with a visit by a foreign official or dignitary of the same country as that mission to participate in an activity of an international organization of which the United States is a member, the application shall include the name and location of the mission or office.

The _____ (Government entity) _____ (Is or is not) _____ prepared to provide _____ (all or a portion of) the protection required to meet this need. Attached is an estimate of the approximate number of personel, by grade and rank, and the specific services, equipment and facilities which will be required to meet this extraordinary protective need, along with an estimate of the cost of such personnel, services, equipment, and facilities. _____ (Date)

_____

(State or local government of the affected metropolitan area)

_____

(Signature)

_____

(Title)

* * * * *

It is proposed to add Appendix I (F) to read as follows:

Appendix I (F)—Estimated Overhead and Administrative Costs

Date: _____

SELECT ONLY ONE METHOD

_____

_____ 1. Reimbursement for overhead and administrative costs will be requested as a flat 5 percent of the total extraordinary protective need cost as provided in section 13.6 of these regulations.

_____

——— 2. Reimbursement for overhead and administrative costs will be requested on a dollar-for-dollar basis. Computation of these costs will be made using the below described method:

(Explain in detail how all of these costs can be directly and exclusively attributed to the extraordinary protective need.)

It is proposed to add Appendix II (F) to read as follows:

Appendix II (F)—Overhead and Administrative Costs

Date: ———

SELECT ONLY ONE METHOD

——— 1. Reimbursement for overhead and administrative costs is requested as a flat 5 percent of the total extraordinary protective need cost as provided in section 13.6 of these regulations.

———

——— 2. Reimbursement for overhead and administrative costs is requested on a dollar-for-dollar basis. Computation of these costs has been made using the below described method:

(Explain and show in detail how all of these costs have been directly and exclusively attributed extraordinary protective need costs.)

Dated: June 18, 1979.

Rich J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 79-19624 Filed 6-22-79; 8:45 am]

BILLING CODE 4810-25-M

POSTAL SERVICE

[39 CFR Part 775]

National Environmental Policy Act Implementing Procedures

AGENCY: U.S. Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes the procedures below in voluntary compliance with the Council on Environmental Quality's (CEQ's) new regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA). The new regulations direct all agencies of the Federal Government to adopt supplemental procedures. The new regulations, adopted November 29, 1978, are broader in coverage and more definitive than their predecessor guidelines, adopted in 1971, under which the Service's existing environmental statement procedures were issued. The proposed new procedures, in consonance with CEQ's new regulations, implement all pertinent NEPA procedural provisions, and relates more specifically to the Service's actual operations than do the existing procedures. In addition, the proposed new procedures list typical classes of action normally requiring environmental assessment, and typical classes not requiring it; direct that environmental analyses be timely, so that plans and decisions reflect environmental values; require the use of environmental analyses in the location of suitable sites for postal facility construction projects; require the completion of detailed statements, where applicable, before financial commitments are made which favor any alternative; and require that environmental assessments reflect views and information obtained from government agencies and, where likely to be environmentally significant, the public.

DATES: Written comments must be received by July 25, 1979.

ADDRESS: Written comments should be sent to: Director, Office of Program Planning, Real Estate and Buildings Department, United States Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8992, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Frank Rowan, 202–245–4348.

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality's (CEQ's) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (43 FR 55978, November 29, 1978, 40 CFR Parts 1500–1508), were issued pursuant to Executive Order 11514, March 5, 1970, as amended by Executive Order 11991, May 24, 1977, in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), and section 309 of the Clean Air Act, as amended (42 U.S.C. 7609).

Although the Postal Service is exempt, with specified exceptions not including NEPA, from Federal laws dealing with public property, works, employees, or funds (39 U.S.C. 410), the Service currently utilizes environmental statement procedures which it adpoted (37 FR 13322, July 6, 1972, 39 CFR Part 775) in 1972 in voluntary compliance with NEPA. The Service issued a notice of proposed rulemaking on August 24, 1976 (41 FR 35725) proposing reissuance of its 1972 procedures with extensive revisions, but that proposal was overtaken by the President's initiation of the process leading to the CEQ's new regulations. Adoption of a final rule accordingly was deferred. Both the 1972 environmental statement procedures and the 1976 notice of proposed rulemaking will be rescinded when a final rule is adopted as proposed in this notice.

The proposed procedures consist of eleven sections, numbered accordingly, which will comprise part 775 of title 39, Code of Federal Regulations. Simplicity, clarity, and brevity have been sought. Subparagraph catchlines have been used liberally for ease of use.

Typical Classes of Action

Proposed listings of typical classes of action normally assessed for environmental impact, and those normally not assessed ("categorical exclusions"), follow the usual sections giving the purpose and policy of the procedures and the assignment of responsibilities for their implementation. Relatively few kinds of action have been listed, and listings have been avoided which would have to be narrowly circumscribed. It is anticipated that additional typical classes of action may be added through the notice and comment process after adoption of these procedures.

No class of action is listed as normally requiring environmental impact statements. Some major postal facility construction actions have previously required detailed statements—due, usually, to traffic or urban-form impacts—but many have not, and no ready means of distinguishing such actions by class is apparent. Such actions are included, therefore, in a typical class normally assessed for environmental impact. If an assessment discloses significant impacts or potential impacts, a detailed statement will be prepared as a matter of course.

An action must be assessed for environmental impact if it involves new construction, including lease-construction; the purchase or lease of an existing building if a new or substantially enlarged occupancy is involved; the disposal of real property; the expansion or improvement of an existing postal facility where the facility's size is increased by more than 20 percent or the site is enlarged substantially; postal facility function changes involving the relocation of a substantial number of postal employees or a substantial increase in the number of motor vehicles at a facility; or the initiation of a legislative proposal. All such classes of action involve or may involve changes to the physical environment, and they accordingly

should be evaluated for significant environmental impact. None, however, is of a magnitude sufficient to require a detailed impact statement as a matter of course. Individual postal facility and operational actions normally are much too small to have significant ecological impacts, and their impacts on traffic, urban-form, land use, economic and population conditions, and the like, are often found on careful analysis to be highly localized and of slight magnitude. Accordingly, it has been concluded tentatively that decisions to make detailed environmental impact statements on postal actions should be arrived at individually after assessment.

Four typical classes of action are listed which normally do not require either an environmental assessment or a detailed impact statement. These involve postal facility function changes not involving construction, the relocation of a substantial number of employees or a substantial increase in the number of motor vehicles at a facility; procurements or disposals of motor vehicles not involving a substantial increase in the concentration of vehicles in a geographic impact area; postal rate or mail-classification actions; and procurements or disposals of property other than real property and motor vehicles. Although the foregoing kinds of action do not require environmental assessment normally, an assessment must be made in every case unless a written determination is made, under section 775 6(a)(1), that the action is one of a categorically excluded class and is not affected by extraordinary circumstances which may cause it to have a significant environmental effect.

The categorically excluded kinds of action are ones which do not involve physical changes to the environment, large movements of personnel, or substantially increased concentrations of motor vehicles. The effects of postal rate and mail classification changes are predominantly economic. Insofar as such changes have secondary environmental consequences, those consequences are dispersed nationwide, and are shared effects of other economic causes to such an extent as to be well nigh imponderable. The Postal Service's procurements and disposals of personalty other than motor vehicles (*i.e.*, supplies, equipment, tools, mail processing machines, conveyors, etc.) plainly will not normally have significant environmental effects.

Environmental Evaluation Guidance

Overall guidance for evaluating the probable effects of proposed actions on the environment, and utilizing environmental studies in formulating plans, is provided in §§ 775.5, Environmental Evaluation Guidelines, and 775.6, Environmental Evaluation Process. The guidelines section directs the implementation of the basic procedural provisions of NEPA section 102(2). It requires: the systematic use of environmental studies in planning and decisionmaking; the appraisal of environmental values in conjunction with economic and technical analyses; the timely preparation of environmental documents, and their consideration along with other planning documents at all decision points; and the appropriate development and consideration of reasonable alternatives to recommended actions.

The section on the environmental process directs the accomplishment of major steps in the development of proposed actions. It directs the assessment for environmental impact of all nonexcluded actions; provides for the preparation and use of "findings of no significant impact;" directs the issuance of pre-impact statement notices; directs the use of impact statements in decisionmaking; directs the preparation of a "Record of Decision" for each action for which an impact statement is prepared; and requires the implementation of adopted mitigation measures. Additional provisions governing postal facility actions direct the use of environmental data in the location of suitable sites; direct the submission to the Service's Capital Investment Committee and Board of Governors of recommendations, based on assessments; for the preparation of environmental impact statements; and require the completion of detailed impact statements, where required, before financial commitments are made which favor any alternative. Accomplishment of this latter requirement is to be achieved by limiting funds for proposed facility actions concerning which detailed statements are needed to those necessary for:

(i) The preparation of an impact statement,

(ii) The control of specified competing sites, chosen to preserve environmental options in addition to any others, and

(iii) The development of limited building designs for each competing site.

Finally, the process section directs that completed impact statements for facility investment proposals be presented to the Capital Investment Committee, and to the Board of Governors if the Board considers the proposal, for use in deciding whether to authorize proposed investments.

A brief description of the contents of environmental assessments and the requirement for obtaining pre-assessment views and information from government agencies and the public, are set out in § 775.7, Environmental Assessments.

Detailed Statements

Section 775.8 contains directions for determining the scope, preparing, distributing, responding to comments on, supplementing, and contracting for, detailed environomental impact statements. In addition, a special subsection contains directions for the preparation and transmittal to the Congress of impact statements on legislative proposals. Scope determinations must reflect views and information solicited from affected agencies and interested persons, and scope hearings are authorized. Alternatives to be considered must include the "no-action" alternative. Issues which are not significant are to be identified and eliminated, thus sharpening the forcus of impact statements, and permitting savings of time and paperwork.

Detailed statements must be prepared, as directed in § 775.8(b), in two stages, draft and final; they must be analytic, concise, and contain discussions of impacts in proportion to their significance. Statements must contain discussions of alternatives considered, which must encompass the range of alternatives considered by the decision makers, and must serve to assess the impact of proposed actions rather than justify decisions already made. Additional instructions are provided regarding the length of statements, "tiered" statements, incorporation of material in statements by reference, the use of cost-benefit analyses, and the treatment to be given any inconsistencies between the proposed action and any state or local law or plans. A standard format for environmental statements is given in § 775.8(c).

Section 775.8(d) directs the distribution of draft and final impact statements. Draft statements which are to be the subject of a hearing must be made available to the public at least 15 days before the hearing. Draft and final statements must be filed with the EPA and circulated to designated Federal, state and local agencies, A–95 Clearinghouses, and interested individuals and organizations.

Directions as to the kinds of responses to be made to comments received on draft and final statements are contained in § 775.8(e). The kinds of responses

authorized are listed, a positive response of some kind being required in every instance. Supplements to draft or final statements are required by § 775.8(f) whenever substantial changes are made in a proposed action or significant new circumstances arise. Draft and final supplements must be prepared, circulated, and filed in the same manner as draft and final statements, and decisions must be delayed until the supplementation process has been completed.

Time Limits

Minimum times of 90 days after publication by the EPA of a notice of its receipt of a draft statement, and 30 days after such a publication with regard to a final statement, are established in § 775.9 as mandatory waiting periods before a decision on a proposed action may be made. The 30 and 90 day waiting periods may run concurrently. A minimum time of 45 days is prescribed for the submission of comments on draft statements.

Public Notice and Information

Public notice and information requirements are stated in § 775.10. Notices of hearings, of intent to make an environmental assessment, intent to make a detailed environmental impact statement, and of the availability of environmental documents, must be mailed to those who have requested them, to national organizations reasonably expected to be interested, and, where an action's effects will be primarily of local concern, to A-95 clearinghouses, the State Historic Preservation Officer, and local public officials. Notices primarily of local concern must also be published in a local newspaper, posted on and near any proposed or alternate site, and mailed to owners and occupants of nearby and affected properties and to potentially interested community organizations, including small business associations. All notices of intent to prepare an environmental impact statement will be published in the **Federal Register**. All notices must give the name, address, and telephone number of a postal official to be contacted for information.

Hearings

The holding of public hearings is directed in section 775.11 whenever there is substantial controversy and a request for a hearing by a responsible party, a request by an involved agency, or a reasonable expectation that a hearing will produce information not likely to be obtained otherwise.

In consideration of the foregoing, it is proposed to revise Part 775 of Chapter I of title 39, Code of Federal Regulations, as follows:

W. Allen Sanders,

Acting Deputy General Counsel.

PART 775—ENVIRONMENTAL PROCEDURES

Sec.

775.1 Purpose.
775.2 Policy.
775.3 Responsibilities.
775.4 Typical Classes of action.
775.5 Environmental Evaluation Guidelines.
775.6 Environmental Evaluation Process.
775.7 Environmental assessments.
775.8 Environmental impact statements.
775.9 Time frames for environmental impact statement actions.
775.10 Public notice and information.
775.11 Hearings.

Authority: 39 U.S.C. 401.

§ 775.1 Purpose.

These procedures implement the National Environmental Policy Act (NEPA) Regulations (43 FR 55978) issued by the Council on Environmental Quality (CEQ). These procedures are adopted pursuant to the Postal Reorganization Act rather than the NEPA insofar as the NEPA and its Regulations do not apply to the Postal Service under 39 U.S.C. 410(a).

§ 775.2 Policy.

It is the policy of the Postal Service to:

(a) Interpret and administer applicable policies, regulations, and public laws of the United States in accordance with the policies set forth in the National Environmental Policy Act, as amended, and the NEPA Regulations.

(b) Make the NEPA process useful to Postal Service decision makers and the public.

(c) Emphasize environmental issues and alternatives in the consideration of proposed actions.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess reasonable alternatives to proposed actions in order to avoid or minimize adverse effects on the environment.

(f) Use all practicable means to protect, restore, and enhance the quality of the human environment.

(g) Reduce paperwork.

(h) Reduce delay.

§ 775.3 Responsibilities.

(a) The Assistant Postmaster General, Real Estate and Buildings Department, is responsible for overall review of NEPA compliance.

(b) Heads of affected Headquarters Departments and Regional Postmasters General must designate "Environmental Coordinators" to be specifically responsible for compliance with these procedures.

§ 775.4 Typical classes of action.

(a) *Normally assessed kinds of action.* These procedures apply to the following typical classes of actions:

(1) Those which normally require environmental impact statements: None.

(2) Those which normally require environmental assessment but not necessarily environmental impact statements:

(i) Postal facility actions:

(A) New construction, including lease-construction.

(B) The purchase or lease of an existing building if a new or substantially enlarged occupancy is involved.

(C) The expansion or improvement of an existing facility where the gross square footage of the facility is increased by more than twenty percent or the site size is increased substantially.

(ii) Real property disposals.

(iii) Postal facility function changes involving the relocation of a substantial number of employees or a substantial increase in the number of motor vehicles at a facility.

(iv) Initiation of legislative proposals.

(b) *Categorical Exclusions.* The following typical classes of action normally do not require either environmental assessment or an environmental impact statement:

(1) Postal facility function changes not involving construction, the relocation of a substantial number of employees, or a substantial increase in the number of motor vehicles at a facility.

(2) Procurements or disposals of motor vehicles not involving a substantial increase in the concentration of vehicles in a geographic impact area.

(3) Postal rate or mail classification actions.

(4) Procurements or disposals of property other than real property and motor vehicles.

§ 775.5 Environmental evaluation guidelines

(a) *Approach.* When dealing with proposals which may have an impact on the human environment, environmental coordinators, planners, decision makers, and other officials responsible for actions, will, as appropriate:

(1) Use a systematic approach that integrates natural and social sciences

and environmental design in planning and making decisions.

(2) Identify Environment effects and values in detail, and appraise them in conjunction with economic and technical analyses.

(3) Consider Environmental documents at all decision points at which other planning documents are considered. (Plans and decisions are to reflect environmental values. Proposed actions should be assessed as soon as their effects can be meaningfully evaluated, to provide the bases for early decision on whether detailed environmental impact statements must be prepared.)

(4) Study, develop, describe, and evaluate at all decision points, reasonable alternatives to recommended actions which may have a significant effect on the environment.

(b) *Proposal requirements.* When an environmental impact statement has been prepared, it must accompany the proposal through and be used in the decision-making process. Any other proposal must refer to applicable environmental documents (e.g., determination of categorical exclusion; finding of no significant impact; notice of intent to prepare an impact statement), and relevant comments and responses.

(c) *Lead agency arrangements.* If the Postal Service and another Federal agency become involved in a lead agency arrangement for the preparation of an environmental impact statement, the Service will cooperate fully.

§ 775.6 Environmental evaluation process

(a) *All actions.*—(1) *Assessment of actions.* An environmental assessment must be made of each proposed action, except that an assessment need not be made if a written determination is made that:

(i) The action is one of a class listed in § 775.4(b), Categorical Exclusions, and

(ii) The action is not affected by extraordinary circumstances which may cause it to have a significant environmental effect.

(2) *Findings of no significant impact.* If an environmental assessment indicates that there is no significant impact of a proposed action on the environment, an environmental impact statement is not required. A "finding of no significant impact" is prepared and published in accordance with § 775.10. When the proposed action is approved, it may be accomplished without further environmental consideration. A "finding of no significant impact" document briefly presents the reasons why an action will not have a significant effect on the human environment and states that an environmental impact statement will not be prepared. It must refer to the environmental assessment and any other environmentally pertinent documents related to it. The assessment may be included in the finding if it is short, in which case the discussion in the assessment need be repeated in the finding.

(3) *Impact statement preparation decision and notices.* If an environmental assessment indicates that a proposed major action would have a significant impact on the environment, a notice of intent to prepare an impact statement is published (see Section 775.10) and an environmental impact statement is prepared.

(4) *Role of impact statement in decision making.* An environmental impact statement is used, with other analyses and materials, to decide which alternative should be pursued, or whether a proposed action should be abandoned or other courses of action pursued. See Section 775.9 for restrictions on the timing of this decision.

(5) *Record of decision.* For actions requiring environmental impact statements, a concise public Record of Decision is prepared when a decision or a proposal for legislation is made. The Record, which may be integrated into any other record, including that required by OMB Circular A–95 (Revised), must:

(i) State what the decision was.

(ii) Identify all alternatives considered in reaching a decision, specifying alternatives considered to be environmentally preferable; identify and discuss all significant factors, including any essential considerations of national policy, which were weighed in making the decision and state how those considerations entered into the decision.

(iii) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been or will be adopted, and if not, why not.

(6) *Actions prohibited prior to issuance of record of decision.* Until a Record of Decision is issued, no action may be taken on a proposal on which an environmental impact statement is made if the action would: (i) Have an adverse environmental impact, or

(ii) Limit the choice of reasonable alternatives.

(7) *Mitigation measures.* Practicable mitigation measures identified in an environmental assessment must be implemented. Mitigation measures described in an environmental impact statement and accepted in a decision must be implemented. Upon request, the Postal Service informs federal, state, and local agencies and the public of the progress in carrying out adopted mitigation measures.

(b) *Additional requirements for facility actions.* (1) The environmental assessment of any action which involves the choice of a site for a facility must be started early in the planning of the action, and be used, together with other information, in the location of suitable sites.

(2) When an environmental assessment indicates that an environmental impact statement may be needed for a proposed facility action, a Decision Analysis Report Reflecting the results of the assessment is presented to the Capital Investment Committee, and to the Board of Governors if the Board considers the proposal (see, 39 CFR 3.4(f)), so that they may decide if an impact statement is to be prepared.

(3) If the Committee or the Board is requested to authorize the preparation of an environmental impact statement, and an analysis indicates that it would be more cost-effective to proceed immediately with control of sites and project designs, the request will include authorization of funds to permit: (i) The preparation of an impact statement encompassing all reasonable site alternatives,

(ii) The control of specified competing sites, chosen to preserve environmental options as well as any others, and

(iii) The development of limited designs of facilities for each competing sites.

(4) A completed environmental impact statement will be presented to the Capital Investment Committee, and to the Board of Governors if the Board considers the proposal, for use in deciding whether a proposed project should proceed, be restudied, or be abandoned. If the decision is to proceed with a proposed project, the Committee, or the Board if it considers the proposal, decides which alternative site is to be used for project development, and authorizes the project.

§ 775.7 Environmental assessments.

(a) An environmental assessment must contain: (1) A summary of major considerations and conclusions,

(2) A description of the proposed action,

(3) For each reasonable alternative, a description of the affected environment, the environmental consequences, the mitigation measures, if any, and a comparison to all alternatives considered.

(b) Those preparing an environmental assessment must solicit information and

views from Federal, state, and local agencies and, where there is a substantial likelihood of significant effects on the environment, the public. All responsible views and information must be considered.

§ 775.8 Environmental impact statements.

(a) *Determining scope.* Before an environmental impact statement is prepared, the following procedures must be followed to determine what issues are to be addressed and in what depth:

(1) Affected Federal, State, and local agencies and other interested persons are invited to participate by furnishing written views and information, or at a hearing if appropriate. Notice is given in accordance with § 775.10.

(2) The significance of issues to be analyzed in depth in the environmental impact statement is determined through consideration of: (i) Actions which are closely related, or similar, or have cumulative significant impacts.

(ii) Alternatives, which must include the "no action" alternative, other reasonable courses of action, and mitigation measures.

(iii) Impacts, which may be direct, indirect, or cumulative.

(3) Issues which are not significant are identified and eliminated.

(4) The determinations made must be revised if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

(b) *Preparation.* (1) Except for proposals for legislation, environmental impact statements are prepared in two stages:

(i) Draft environmental impact statement, prepared in accordance with the scope decided upon under paragraph (a) of this section.

(ii) Final environmental impact statement, responding to comments on the draft statement and discussing and responding to any responsible opposing view which was not adequately discussed in the draft statement.

(2) Environmental impact statements must: (i) Be analytic rather than encyclopedic.

(ii) Contain discussions of impacts in proportion to their significance. Insignificant impacts eliminated during the process under § 775.8(a) to determine the scope of issues must be discussed only to the extent necessary to state why they will not be significant.

(iii) Be concise, and not longer than is necessary to comply with NEPA. They must not contain repeated statements of the same basic points.

(iv) Contain discussions of alternatives considered and of how alternatives chosen will meet the requirements of NEPA and other environmental laws and policies.

(v) Encompass the range of alternatives to be considered by the decision makers.

(vi) Serve to assess the environmental impact of proposed actions, rather than to justify decisions already made.

(3) The text of final environmental impact statements normally should be less than 150 pages. Statements on proposals of unusual scope or complexity normally should be less than 300 pages.

(4) Staged or "tiered" environmental impact statements must not contain repetitive discussions of the same issues. Each document must state where each earlier document is available.

(5) Material may be incorporated into an environmental impact statement by reference only when the material is reasonably available for inspection by potentially interested persons within the time allowed for comment.

(6) If information relevant to adverse impacts is essential to a reasoned choice among alternatives, but the cost of obtaining it is exorbitant or the means to obtain it are beyond the state of the art, the need for the action must be weighed against the risk and severity of possible adverse impacts if the action were to proceed. There must be included in the statement a "worst-case" analysis and an indication of the probability or improbability of its occurrence.

(7) If a cost-benefit analysis relevant to the choice among environmentally different alternatives was prepared for the proposed action, it must be incorporated by reference or appended to the statement to aid in evaluating the environmental consequences. The relationship between the cost-benefit analysis and any analysis of unquantified environmental impacts, values, and amenities must be discussed.

(8) Methods used must be identified, and footnote references must be made to scientific and other sources relied on for conclusions. Analytical techniques may be incorporated in appendices.

(9) Permits, licenses, and other authorizations needed to implement a proposal must be listed in the draft environmental impact statement and the prospects for obtaining them must be assessed. Where there is uncertainty as to the need for an authorization it must be indicated.

(10) An environmental impact statement must contain a discussion of any inconsistency between the proposed action and any State or local law, ordinance, or approved plan: and must contain a description of the manner and extent to which the proposed action will be reconciled with the law, ordinance, or approved plan.

(11) Where State laws or local ordinances impose environmental impact statement requirements which are not in conflict with those in NEPA, an environmental impact statement made by the Postal Service should satisfy pertinent State and local requirements to the extent practicable.

(c) *Format.* The standard format for environmental statements is:

(1) *Cover sheet.* The cover sheet, not to exceed one page, must include: (i) A list of the responsible agencies including the lead agency and any cooperating agencies.

(ii) The title of the proposed action that is the subject of the statement (and if appropriate, the titles of related cooperating agency actions), together with any city, state, and county where the action is to take place.

(iii) The name, address, and telephone number of a person at the agency who can supply further information.

(iv) A designation of the document as a draft or final statement or a draft or final supplement.

(v) A one-paragraph abstract of the statement.

(vi) The date by which comments must be received.

(2) *Summary.* The summary must stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives).

(3) *Table of contents.*

(4) *Purpose of and need for action.*

(5) *Alternatives and mitigation.* This portion of the environmental impact statement is vitally important. Based on the analysis in the Affected Environment and Environmental Consequences section (see § 775.8(c)(6)), the environmental impacts and the alternatives are presented in comparative form, thus sharply defining the issues and providing a clear basis for choosing alternatives.

Those preparing the statement must: (i) Explore and evaluate all reasonable alternatives, including the "no action" alternative, and briefly discuss the reasons for eliminating any alternatives.

(ii) Devote substantial treatment to each alternative considered in detail, including the proposed action, so that reviewers may evaluate their comparative merits.

(iii) Identify the preferred alternative or alternatives in the draft and final statements.

(iv) Describe appropriate mitigation measures not considered to be an integral part of the proposed action or alternatives. See § 775.6(a)(7).

(6) *Affected environment and environmental consequences.* For each reasonable alternative, each affected element of the environment must be described, followed immediately by an analysis of the impacts (environmental consequences). Describe:

(i) Any adverse environmental effects which cannot be avoided should the action be implemented,

(ii) The relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity, and

(iii) Any irreversible or irretrievable commitments of resources should the action be implemented.

(7) *List of mitigation measures.*

(8) *List of preparers.*

List the names, together with the qualifications (expertise, professional disciplines), of persons who were primarily responsible for preparing the environmental impact statement or significant background papers.

(9) *List of agencies, organizations and persons to whom copies of the statement are sent.*

(10) *Index.*

(11) *Appendices.* Include comments on draft statement in final statement.

(d) *Distribution.* (1) Any completed draft environmental impact statement which is made the subject of a public hearing, must be made available to the public as provided in § 775.10, below, at least 15 days in advance of the hearing.

(2) Draft and final environmental impact statements must be filed with the Environmental Protection Agency. Five copies are filed with EPA's headquarters addressed to the Office of Federal Activities (A–104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; five copies are also filed with the responsible EPA region. Statements may not be filed with the EPA earlier than they are transmitted to commenting agencies and made available to the public.

(3) Copies of draft and final environmental impact statements must be furnished to: (i) any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) Any appropriate Federal, State, or local agency authorized to develop and enforce environmental standards.

(iii) A–95 Clearinghouses and National Historic Preservation Offices.

(iv) Any person, organization or agency requesting them.

(4) Copies of final environmental impact statements must be furnished to any person who, or organization or agency which, submitted substantive comments on the draft.

(e) *Responses to comments.* (1) A final statement responds to comments on a draft statement in one or more of the following ways:

(i) Modification of alternatives, including the proposed action.

(ii) Development and evaluation of alternatives not previously given serious consideration.

(iii) Supplementation, improvement, or modification of analyses.

(iv) Correction of facts.

(v) Explanation of why a comment does not warrant a direct response, citing supporting sources, authorities, or reasons. Relevant circumstances which may trigger reappraisal or further response must be indicated.

(2) Substantive comments received on a draft statement must be attached to the final statement.

(3) If all of the changes are minor and are confined to responses described in paragraph (e)(i)(iv) and (v) above, errata sheets may be written, and only the comments and errata sheets need be recirculated. In such a case, the draft statement with the comments, errata sheets, and a new cover, must be filed as the final statement.

(f) Supplements. (1) A supplement to a draft or final environmental impact statement must be issued if:

(i) Substantial changes are made in the proposed action that are relevant to environmental concerns; or

(ii) Significant new circumstances or information bearing on environmental impacts of the proposed action arise or are discovered.

(2) The decision on a proposed action involving an environmental impact statement, must be delayed until any necessary supplement has been circulated and has gone through the commenting period. A supplement is prepared, circulated, and filed in the same manner (except for determining scope) as draft and final statements, unless alternative procedures are approved by CEQ.

(g) *Contracting.* A contractor employed to prepare an environmental impact statement must certify that it has no financial or other interest in the outcome of the project.

(h) *Proposals for legislation.* Legislative environmental impact statements must be prepared and transmitted as follows:

(1) A legislative environmental impact statement is considered part of the formal transmittal of a legislative proposal to the Congress. It may be transmitted to the Congress up to 30 days after the proposal. The statement must be available in time for Congressional hearings and deliberations.

(2) Preparation and processing of a legislative statement must conform to the requirements for impact statements, except as follows: (i) It is not necessary to determine the scope of issues.

(ii) A draft is considered to be a final statement. Both draft and final statements are needed only when:

(A) A Congressional committee with jurisdiction over the proposal has a rule requiring both.

(B) Both are specifically required by statute for proposals of the type being submitted.

(3) Comments received on a legislative statement, and the Postal Service's responses, must be forwarded to the Congress.

§ 775.9 Time frames for environmental impact statement actions.

(a) Each week the EPA publishes in the **Federal Register** a notice of the draft and final environmental impact statements received in that office during the preceding week. The minimum time periods for decision on an action, specified in paragraphs (b) through (d) below, are calculated from the date of publication of an EPA notice of receipt of the relevant impact statement.

(b) A decision on a proposed action may not be made or recorded until the later of the following dates: 90 days after publication of the notice described in paragraph (a) of this section for a draft statement for 30 days after publication of the notice for a final statement.

(c) If a final statement is filed with the EPA within 90 days after a draft statement is filed, the 30 day period and the 90 day period may run concurrently.

(d) A minimumn of 45 days must be allowed for comments on draft statements.

§ 775.10 Public notice and information.

(a) Public notice must be given of NEPA-related hearings, intent to undertake environmental assessments and impact statements, and the availability of environmental documents (that is, environmental assessments, findings of no significant impact, and environmental impact statements), as follows:

(1) Notices are mailed to those who have requested them.

(2) Notices concerning a proposal of national concern are mailed to national organizations reasonably expected to be interested.

(3) Notices of any proposed action having effects primarily of local concern, must be given as follows:

(i) Any such notice, including a copy of any pertinent environmental document, is mailed to State, areawide, and local A–95 clearinghouses listed in OMB Circular A–95 (Revised) for the geographic area involved, to the State Historic Preservation Officer, and to local public officials.

(ii) Notices are published in one or more local newspapers.

(iii) Notices are mailed to potentially interested community organizations, including small business associations.

(iv) Notices are mailed to owners and occupants of nearby and affected property.

(v) Notices are posted on and near any proposed and alternate sites for an action.

(4) A copy of every notice of intent to prepare an environmental impact statement must be furnished to the Assistant General Counsel, Legislative Division, Law Department, who will have it published in the **Federal Register.**

(b) All notices must give the name, address, and telephone number of a postal official who may be contacted for information. Environmental documents are made available to the public on request. Inspection, copying, and the furnishing of copies will be in accordance with 39 Code of Federal Regulations, Part 265, "Release of Information."

§ 775.11 Hearings.

(a) Public hearings must be held whenever there is:

(1) Substantial environmental controversy concerning a proposed action and a request for a hearing by any responsible individual or organization;

(2) A request for a hearing by an agency with jurisdiction over or special expertise concerning the proposed action; or

(3) A reasonable expectation that a hearing will produce significant information not likely to be obtained without a hearing.

(b) The distribution and notice requirements of §§ 775.8(d)(1) and 775.10 must be complied with whenever a hearing is to be held.

[FR Doc. 79–19044 Filed 6–22–79; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 250]

[FRL 1256–3]

Preliminary Notification of Hazardous Waste Activities; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: The period for public comment on proposed regulations implementing Section 3010 of the Resource Conservation and Recovery Act is reopened for 30 days.

DATE: Comments must be received on or before July 25, 1979;

ADDRESS: Send comments to: John P. Lehman, Director, Hazardous Waste Management Division, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3010."

FOR FURTHER INFORMATION CONTACT: Mr. Terrence Kafara, Hazardous Waste Management Division, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, Washington, D.C. 20460, 202–755–9206.

SUPPLEMENTARY INFORMATION: Section 3010 of the Resource Conservation and Recovery Act (RCRA) requires that persons who generate, transport, treat, store or dispose of hazardous waste submit preliminary notification of their activities to EPA or to States, if authorized under Section 3006. On July 11, 1978 (43 FR 29908), EPA proposed regulations implementing these preliminary notification requirements. The period for public comment on these regulations closed on September 11, 1978.

The obligation to comply with the requirements of Section 3010 is dependent upon the determination that a person's activities involve hazardous waste. However, it was not until December 18, 1978 (43 FR 58946), that EPA proposed regulations under Section 3001 of RCRA which identified the characteristics of hazardous waste and listed specific hazardous waste. Since these Section 3001 regulations were not proposed until after the close of the comment period for Section 3010, EPA is concerned that not all persons were aware that they might be affected by the earlier proposal. In fact, since proposal of the Section 3001 regulations, additional comments have been received on the Section 3010 regulations.

In order to incorporate these comments into the administrative record and to give people an additional opportunity to present their views, EPA is reopening the comment period on the proposed Section 3010 regulations for 30 days. This unusual action is being taken solely because the Section 3010 regulations were proposed before the regulations implementing Section 3001. The comment period on no other regulation is affected by this action.

Dated: June 19, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Managment.

[FR Doc. 79–19700 Filed 6–22–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

[Docket No. FI–5581]

Proposed Flood Elevation Determinations for the Town of Brownsburg, Hendricks County, Ind., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Brownsburg, Hendricks County, Indiana.

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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Brownsburg Town Hall, East Main Street, Brownsburg, Indiana.

Send comments to: Mr. Richard Isenhour, President of the Town Board

of Brownsburg, East Main Street, Brownsburg, Indiana 46112.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Brownsburg, Hendricks County, Indiana 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
White Lick Creek	Downstream Corporate Limits.	847
	Country Road 500 North	850
	Downstream of U.S. Route 136 (Main Street).	859
	Upstream of Conrail	863
	Upstream of Stonebrook Drive.	869

(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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19482 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5582]

Proposed Flood Elevation Determinations for the City of Murray, Calloway County, Ky., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Murray, Calloway County, Kentucky.

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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Planners Office, City Hall, Fifth & Poplar Streets, Murray, Kentucky 42071.

Send comments to: Mayor Henley or Mr. Steve Zea, City Planner, City Hall, Fifth & Poplar Streets, Murray, Kentucky 42071.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Murray, Calloway County, Kentucky, 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Clarks River	Just downstream of Main Street (HWY 94).	466
	Just downstream of Old Concord Road.	468
Tributary 1 to Clarks River.	Just upstream of South Second Street.	480
	Just upstream of South Fourth Street.	485
Bee Creek	Just upstream of the eastern corporate limits.	464
	Just upstream of North Fourth Street.	468
Tributary to Bee Creek.	Just upstream of the confluence with Bee Creek.	478
	Just downstream of US Highway 641 (North 12th Street).	480
Tributary to Middle Fork Clarks River.	Just upstream of US Highway 641 (South 12th Street).	496
	Just upstream of Meadow Lane.	509

(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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19483 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5583]

Revision of Proposed Flood Elevation Determinations for the City of Hazelwood, St. Louis County, Mo., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hazelwood, St. Louis County, Missouri.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 43324 on September 25, 1978, and in the *Neighborhood Times* published on or about June 7, 1978 and June 21, 1978, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood base (100-year) elevations are available for review at the City Hall, 7900 North Lindbergh, Hazelwood, Missouri.

Send comments to: The Honorable Douglas W. Palmer, Mayor, City of Hazelwood, City Hall, 7900 North Lindbergh, Hazelwood, Missouri 63042.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Hazelwood, 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 44 CFR 67.4(a)).

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).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevations in feet, national geodetic vertical datum
Cold Water Creek	North Corporate Limits	516
	Dunn Road	517
	Interstate 270	518
	Pershall Road	520
	Wabash Railroad	521
	South Corporate Limits	522
Lynn Haven Elm Grove Creek.	Confluence with Coldwater Creek.	517
	950 Feet downstream of Lindbergh Boulevard.	517
	Lindbergh Boulevard	519

(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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Gloria M. Jimenez,

Federal Insurance Administrator.

June 15, 1979.

[FR Doc. 79-19484 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5584]

Proposed Flood Elevation Determinations for the Town of Oak Hill, Davidson County, Tenn. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-base) flood elevations listed below for selected locations in the Town of Oak Hill, Davidson County, Tennessee.

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 quality or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Manager, West Melrose Building, 2535 Franklin Road, Nashville, Tennessee. Send comments to: Mayor Paul C. Simpson or City Manager Neal O. Jones, West Melrose Building, 2535 Franklin Road, Nashville, Tennessee 37204.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Oak Hill, Davidson County, Tennessee, 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevations in feet, national geodetic vertical datum
Middle Fork	Just upstream of Woodmont Boulevard Culvert.	499
Browns Creek	Just downstream of Overbrook Drive.	526

(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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19485 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5585]

Proposed Flood Elevation Determinations for the City of Murphy, Collin County, Tex. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in in the City of Murphy, Collin County, Texas.

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).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall Route 2, Box 154A, Plano, Texas 75074. Send comments to: Mayor Tom Clevenger, Route 2, Box 154A, Plano, Texas 75074.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Murphy, Collin County, Texas, 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Maxwell Creek	Just downstream of F.M. Road 544.	531
	Just upstream of F.M. Road 544.	532
	Just downstream of McMillen Drive.	562

(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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19486 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5586]

Proposed Flood Elevation Determinations for Town of Pownal, Bennington County, Vt. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pownal, Bennington County, Vermont.

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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Pownal Town Office, Pownal, Vermont.

Send comments to: Mr. Bruce Barrington, Chairman of the Board of Selectmen of Pownal, Pownal Town Office, Pownal, Vermont 05261.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Pownal, Bennington County, Vermont 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Hoosic River	Downstream Corporate Limits.	494
	Boston & Main Railroad (Upstream).	498
	State Route 346 (100' Upstream).	501
	Confluence of Potter Hollow Brook.	507
	North Pownal Bridge (Town Highway 24—Upstream).	514
	Pownal Tannery Dam (Downstream).	515
	Pownal Tannery Dam (Upstream).	529
	Pownal Bridge (150' Upstream).	543
	Confluence of Ladd Brook	545
	Upstream Corporate Limits	566
Potter Hollow Brook	Confluence with Hoosic River	507
	State Route 346 (Upstream)	524
Ladd Brook	Confluence with Hoosic River	545
	Private Drive 160' Downstream of Boston & Main Railroad.	545
	Boston & Maine Railroad (Upstream).	554

(National Flood Insurance Act of 1968 (Tile 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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Admininistrator 44 FR 20963).

Issued: June 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19487 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5587]

Proposed Flood Elevation Determinations for the Village of Brown Deer, Milwaukee County, Wis., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Brown Deer, Milwaukee County, Wisconsin.

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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the Village Clerk, 4800 West Greenbrook Drive, Brown Deer, Wisconsin.

Send comments to: Mr. David Cole, Village Manager, Village of Brown Deer, 4800 West Greenbrook Drive, Brown Deer, Wisconsin 53223.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determination of base (100-year) flood elevations for the Village of Brown Deer, Milwaukee County, Wisconsin, 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 44 CFR Part 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
South Branch Creek	Just upstream of Deerwood Drive.	652
	Just upstream of Teutonia Avenue.	656
	Just downstream of Dean Avenue.	657
	Just upstream of Dean Avenue.	660
	Approximately 50 feet downstream of North 47th Avenue.	666
	Just upstream of North 47th Street.	674
	Just upstream of North 51st Street.	676
	Just upstream of North 54th Street.	679
	Just upstream of North 55th Street.	682
	Just downstream of West Bradley Road.	685
Milwaukee River	Downstream of Brown Deer Road.	650
	Upstream corporate limits	653

(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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19488 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5588]

Proposed Flood Elevation Determinations for the Unincorporated Areas of Columbia County, Wisc. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical informantion or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Unincorporated Areas of Columbia County, Wisconsin.

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).

DATES: The period for comment will be ninety (90) days following the second publicaton of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the

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County Clerk, Columbia County Court House, Box 177, Portage, Wisconsin. Send comments to: Mr. Robert Irwin, Zoning Administrator, Columbia County, Columbia County Court House, Box 177, Portage, Wisconsin 53901.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determination of base (100-year) flood elevations for the Unincorporated Areas of Columbia County, Wisconsin, 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 44 CFR Part 67.4 (a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Fox River	At Village of Pardeeville northeastern corporate limit.	808
	Just upstream of Haynes Road.	810
	Just downstream State Highway 33.	815
	2.45 miles upstream of State Highway 33.	819
Crawfish River	At Eastern county boundary...	835
	200 feet upstream of Fall River-Columbia Road.	840
	Just upstream of Hall Road ...	844
	1.87 miles upstream of Hall Road.	848
North Branch Crawfish River.	At Village of Fall River corporate limit.	859
	Just downstream county highway, DG.	861

(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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19489 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5589]

Proposed Flood Elevation Determinations for the Village of River Hills, Milwaukee County, Wis.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of River Hills, Milwaukee County, Wisconsin.

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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of Village Clerk, 7650 North Pheasant Lane, River Hills, Wisconsin.

Send comments to: Mr. John M. Frederickson, Village Manager, Village of River Hills, 7650 North Pheasant Lane, River Hills, Wisconsin 53217.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determination of base (100-year) flood elevations for the Village of River Hills, Milwaukee County, Wisconsin, 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 44 CFR Part 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Milwaukee River	Downstream corporate limits.	633
	Just downstream of Greentree Road.	634
	Just upstream of Greentree Road.	637
	1,260 feet upstream of West Good Hope Road.	641
	200 feet upstream of the confluence of Indian Creek.	645
	Just upstream of Most Northerly Golf Course Bridge.	648
	2,000 feet upstream of Range Line Road.	650
	2,370 feet upstream of west Brown Deer Road.	651
	Upstream corporate limits	653

(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; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19490 Filed 6-22-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Parts 201, 208, and 251]

Requirements for ODS Applications

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed regulation.

SUMMARY: The Maritime Administration (MarAd) proposes to amend its rules of practice and procedure, to add to its regulations a new part, and to amend the form of application for such subsidies. The proposed amendments to the rules of practice and procedure are not extensive and for the most part simply clarify existing rules. The numbers of copies of pleadings required to be filed with the Presiding Officer and MarAd is reduced; parties are required to identify the body that is requested to act on the motions; the Presiding Officer's authority to balance the need for requested discovery against the burden of production is clarified, the show cause procedure is codified, the time within which the petitions for reconsideration must be filed is shortened, and the maritime Subsidy Board's authority to deny interlocutory appeals, petitions for reconsideration, and certain petitions for declaratory orders is clarified. The proposed new Part would establish a standard discovery order and standard technique for forecasting the adequacy/inadequacy of U.S.-flag liner service in hearings required under Section 605(c) of the Merchant Marine Act, 1936, relating to applications for operating-differential subsidy. The form of application for such subsidy is amended to conform to the requirements of this new Part.

COMMENT DATE: Written comments by interested persons must be received by close of business August 24, 1979.

ADDRESS: Send original and 15 copies of comments to the Secretary, Maritime Administration, Washington, D.C. 20230. All comments will be made available for inspection during normal business hours in Room 3099B, Department of Commerce Building.

FOR FURTHER INFORMATION CONTACT: Robert J. Patton, Jr., Maritime Administration, Office of the Secretary, Washington, D.C. 20230, Tel. (202) 377-2188.

SUPPLEMENTARY INFORMATION: Section 605(c) of the Merchant Marine Act, 1936 (Act) requires that under certain circumstances hearings be held on specific issues related to applications for operating-differential subsidy (ODS) to aid in the operation of U.S.-flag vessels in the foreign commerce of the United States. On June 3, 1977, American President Lines, Ltd. (APL) filed before the Maritime Administration and the Maritime Subsidy Board (Board) a Petition for Issuance of a Rule. The petition alleged that proceedings under section 605(c) of the Act were the cause of inordinate delay and excessive cost to applicants for ODS and proposed the adoption of a number of procedural rules.

The petition was published in the Federal Register on June 15, 1977, and public comment on the proposed rule was invited. After review of public comments the Maritime Administration and the Board on March 22, 1979, denied the petition, but announced that within 90 days the Board would issue proposed regulations that would most likely reduce some of the delay and expense of section 605(c) hearing procedures. A task force to study the matter was then established within the staff of the Maritime Administration.

The staff studied seven specific areas in which it was thought that delay or expense might possibly be reduced by change in existing regulations. These were: (1) Preliminary stages before referral to hearing; (2) hearing procedures; (3) summary disposition; (4) the statutory issues of "existing service" and "undue advantage or prejudice"; (5) the statutory issues of adequacy/inadequacy of U.S.-flag service; (6) the statutory issue of "purposes and policy" under the Act; and, (7) the question of transfer privileges.

In a number of these areas, the staff concluded that while some improvement might be made in internal agency practice, no unusual delay or expense was caused by the operation of existing rules or by the lack of procedural rules which could conceivably be proposed. Those areas are not further addressed in this notice. The staff concluded in other areas that amendment of existing rules or the promulgation of new rules would most likely reduce some of the delay and expense in section 605(c) hearings. The task force therefore recommended the adoption of the amendments and new rules described below. In approving publication of these rules proposed by the staff, the Board takes no position on whether, or under what circumstances, an evidentiary hearing is required under section 605(c) of the Act. Nor has it prejudged the question of which standard forecasting methodology, if any, should be used in section 605(c) proceedings. The Board may or may not adopt such proposed methodology after receipt of final comments and may or may not agree to use other methodologies in any pending proceedings prior to the effective date of any final procedural regulations.

46 CFR 201.46 would be amended to reduce the number of copies of documents required to be filed when a filing is before the Presiding Officer, as opposed to filings before the Board. 46 CFR 201.81 would be added, to require that all written motions specify whether relief is requested from the Board or from the Presiding Officer. 46 CFR 201.109 would be modified to clarify the presiding officer's authority to balance the need for requested discovery material against the burden of production, and to limit discovery in such circumstances. 46 CFR 201.133 would be amended to make clear that the Board may deny interlocutory appeals, without having to issue an accompanying opinion explaining the denial. Similarly, 46 CFR 201.74 would be amended to clarify that the Board may reject, without lengthy explanatory opinion, petitions for declaratory orders when it determines that the decision requested is not properly the subject of such a petition. 46 CFR 201.94 would be added to codify the Board's existing authority to issue show cause orders in section 605(c) proceedings. 46 CFR 201.172 is amended to bring the filing time specified in this section for petitions to reopen into conformity with the filing time specified in 46 CFR Part 202.

The proposed new Part 208 introduces two procedural innovations which the task force believes should reduce delay in almost every phase of section 605(c) proceedings. One area of substantial delay and expense identified by the task force was that of arriving at agreement on discovery. 46 CFR 208.2 will eliminate much of this difficulty by establishing specific information which all parties will be required to furnish, and which shall constitute complete pre-hearing discovery. The requirements set forth in this standard discovery order have been coordinated with the information which is required to be furnished in the ODS application, and with the information which would be used in a standard forecasting model suggested in Part 208. The standard discovery order is most suitable for use in hearings related to applications for long term subsidy. However, the Presiding Officer may modify the order where appropriate.

Another cause of great delay and expense identified by the Task Force is

the relatively recent practice of parties submitting extensive expert testimony and documentary evidence purporting to forecast liner cargo and vessel capacity relating to the issue of further adequacy/inadequacy of U.S.-flag service. The principal difficulty with this "economic evidence" has been that no standard methodology has been used, not only in different proceedings, but even in individual proceedings. In some cases, it has been difficult, if not impossible for counsel, the Presiding Officer, and the Board itself to make meaningful comparisons and balance the relative evidentiary worth of forecasts which are based on different premises, use different data sources and arrive at ultimate conclusions expressed in different units of measure.

Accordingly, the Board proposes to establish by regulation one standard forecasting technique to be used by all parties in offering forecasts of future U.S.-flag liner service adequacy or inadequacy. The staff has proposed that the board adopt a technique which is a variation of the "macroeconomic" method, which is summarized in the proposed regulations. The Board recognizes that there are several other methods which might possibly be adopted, and specifically invites criticisms and alternative suggestions, either as to the content and feasibility of the staff method, entirely different methods, or the concept of a standard method itself.

The proposed rule would not foreclose parties from the right to be heard on material issues of fact within the scope of whatever standard technique might be finally adopted. However, the Presiding Officer would have clear authority, by virtue of this Part, to limit issues to those relevant and material to the use of the standard technique, and to reject forecasts based on other techniques.

It is recognized that there may be circumstances in which the use of a detailed, sophisticated forecasting technique may not be necessary or economical. For example, the proposed addition of a limited number of sailings for a short term or near the end of an operator's existing operating-differential subsidy contract might not necessitate such detailed forecasting. The Board also invites interested persons to comment on the formulation of a provision specifying when the standard technique might be waived or modified, and what alternate methods might be allowed in the case of such waivers, or what modifications might be appropriate.

Finally, the Board also specifically invites interested persons to comment on the relatively recent practice of having split hearings in section 605(c) proceedings with a recess between presentation of evidence by interested parties with common interests. The Board is interested in whether this practice has been a cause of any serious delay or expense in such proceedings.

A determination has been made that the proposed regulations and amendments to do not meet any of the criteria for requiring a regulatory analysis that have been established pursuant to EO 12044 (43 FR 12661) and Department of Commerce Administrative Order 218-7 (44 FR 2082).

Accordingly, it is proposed that Title 46, Code of Federal Regulations be amended as follows:

PART 201—RULES OF PRACTICE AND PROCEDURE

1. Amend 46 CFR Part 201 (Rules of Practice and Procedure) as follows:

a. By revising § 201.46 to read as follows:

§ 201.46. Copies of documents for use of the Administration.

Except as otherwise provided in the regulations in this part, an original and ten copies of every document shall be filed for use of the Administration. Unless otherwise directed, only an original and two copies of motions to the Presiding Officer and written testimony and exhibits to be made a part of the record need be filed.

b. By adding a sentence at the end of § 201.74 to read as follows:

§ 201.74. Declaratory orders.

* * * The Administration may deny a petition for declaratory order, whenever appropriate, without explanation other than that such petition is deemed to be solely an unauthorized interlocutory appeal without any basis as a petition for declaratory order.

c. By adding a new § 201.81 to read as follows:

§ 201.81. Specificity of motions.

All written motions and petitions must specifically state whether relief is requested from the Administration or from the Presiding Officer. If the motion or petition is addressed to the Administration and involves a matter in a pending proceeding, a copy shall be filed with the Presiding Officer in that pending proceeding.

d. By adding a new § 201.94 to read as follows:

§ 201.94 Show cause procedure.

The Administration may, in its discretion, issue a show cause order, whenever appropriate, prior to referral of an application to hearing, but only if there is no genuine issue of material fact and, in any event, not for applications for long term operating-differential subsidy agreements. Notice of a show cause order will be published in the **Federal Register** and all interested persons shall be given opportunity to respond to such order. Oral argument may be granted in the discretion of the Administration. Findings pursuant to the order shall be based upon material filed pursuant to the **Federal Register** notice of this section, as well as material available to the public on file with the Administration.

e. By revising § 201.109 to read as follows:

§ 201.109 Discovery and production of documents.

Upon request of any party showing good cause therefor, at the prehearing conference or otherwise upon notice to all other parties, the Administration or Presiding Officer may direct any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which relate to any matter, which is relevant and material to the subject matter involved in the pending proceeding, and which are in the possession, or custody, or subject to the control of that party, unless such relief would be unduly burdensome (as to time or money) on the party so requested, relative to the need for such material.

f. By adding a sentence at the end of § 201.133 to read as follows:

§ 201.133 Appeal from ruling of presiding officer.

* * * The Administration may deny an interlocutory appeal without explanation.

g. By revising § 201.172 to read as follows:

§ 201.172 Time for filing petition to reopen.

Except for good cause shown, and upon leave granted, a petition to reopen under § 201.174 shall be filed with the Administration not later than 15 days after the date of service of the Administration's decision or order in the proceeding, unless a different period is fixed under § 201.54 or the Administration in its decision or order, for good cause shown, precludes a

petition to reopen. Further, notwithstanding anything in this Part to the contrary, a petition to reopen any other matter of the Administration shall be filed, except for good cause shown and upon leave granted, not later than 10 days after the date of service of the Administration's action on such matter and shall otherwise conform to the requirements of § 201.174.

PART 208—PROCEDURES FOR HEARING ON OPERATING-DIFFERENTIAL SUBSIDY APPLICATIONS

2. Add a new Part 208 to read as follows:

Sec.
208.1 Purpose.
208.2 Standard Discovery Order.
208.3 Standard Procedures for Determining Adequacy or Inadequacy of U.S.-Flag Liner Service.
208.4 Procedure Used in Cargo Projection Model.
208.5 Procedure Used in Capacity Projection Model.

Authority: Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (46 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91–469 (84 Stat. 1036); Department of Commerce Organization Order 10–8 (38 FR 19707, July 23, 1973).

§ 208.1 Purpose.

The purpose of this part is to identify certain standard procedures to be used by parties in hearings held pursuant to provisions of Section 605(c), Merchant Marine Act, 1936, as amended (Act), in regard to applications for operating-differential subsidy (ODS) under Title VI of the Act. Procedures relate to discovery and statistical techniques used in determining adequacy or inadequacy of U.S.-flag service.

§ 208.2 Standard discovery order.

(a) *General Requirements.* Within sixty days of referral by the Board of an application of applications to a Presiding Officer for hearing under Section 605(c) of the Act, each party shall supply the information described hereinafter. Modification of this order may be made by the Presiding Officer; such requests for modification must be filed with the Presiding Officer within thirty days of the referral or such additional time as the Presiding Officer may allow. Unless otherwise ordered by the Presiding Officer, compliance with this order shall constitute complete pretrial discovery as against each complying party.

(b) *Existing Fleet and Equipment.* All parties shall provide a tabulation showing the following information with respect to each of the vessels they own or operate.

(1) Name
(2) Line Haul or feeder
(3) Flag
(4) Owned or leased
(5) Type (container, barge, ro-ro, breakbulk)
(6) Years built and converted
(7) Speeds (maximum design and normal operating)
(8) DWT capacity
(9) Bale cubic capacity
(10) Container (or van) capacity in TEU
(11) Reefer capacity, breakbulk and container
(12) Liquid and deep tank capacity
(13) For breakbulk vessels, on deck and underdeck container capacity
(14) Average DWT used at last inbound and last outbound port in relevant trade for fuel, stores, water and other non-revenue producing cargo
(15) Whether vessel has self-sustaining lift capacity and, if so, self-sustaining lift capacity
(16) Service assignment for past two years (showing lay-up, charter-outs separately)

(c) *Barges, containers and chassis.* Parties shall also provide a tabulation of the barges, container and chassis by size and type, separately for owned and leased equipment, as of the most recent date that such information is available. The bale cubic and DWT capacity of barges shall be shown.

(d) *Future additions to fleet.* All parties shall provide the same information with respect to any additional vessel which it expects to enter service within the next five years and which has already been designed. Any additional line haul or feeder vessels expected to enter service within the next five years and which has not yet been designed will be described as follows:

(1) Number of vessel
(2) Type
(3) Expected year of entry into service
(4) Approximate capacity (TEU, Cubic or DWT as appropriate)
(5) Approximate speed
(6) Expected service assignment

(e) *Future fleet reductions.* Each party shall indicate any vessel which it expects to withdraw from service within the next five years, together with the expected date of withdrawal. Applicants shall describe their existing and expected vessed replacement obligations and plans.

(f) *Service descriptions.* Each subsidized party shall furnish from its current ODS contract the description (including minimum and maximum sailings) of the relevant services (the trade routes involved in the proceeding). Each party shall furnish a description of its service in the relevant trade, indicating the trade routes and areas served for the last three calendar years, U.S. and foreign ports of call, whether or not the service has been direct or indirect and if indirect, ports of call and the type of service. Each party shall advise of any pending change in current pattern of operation or in its service description with respect to the relevant trade.

(g) *Itineraries.* Each party shall provide actual itineraries for each relevant service separately for the latest two years and typical itineraries for both present and futute services. All itineraries will identify ports served, voyage turnaround time and frequency of service on each itinerary. If there are substantial deviations from the typical itinerary or itineraries, the nature and frequency of the deviations should be explained.

(h) *Sailings.* Each party shall supply the total number of sailings made in each relevant service during the latest three full calendar years. Each party will supply the number of annual sailings which it projects for each relevant service.

(i) *Existing service assertions.* Each applicant shall describe the portion or portions of its application that it contends is based on existing service. This description should include years, sailings, itineraries, cargo carriage, or other criteria on which the existing service allegation is based.

(j) *Line haul carriage.* Each party shall give, for each of the relevant services, for the lastest three full calendar years, its cargo carriage in long tons and revenue tons between each U.S. coastal district and each foreign country, inbound and outbound, subdivided as follows:

(1) Commercial, bulk and military; and
(2) Container, ro-ro, barge and breakbulk

(k) *Types of cargo.* Each party shall also specify the top 10 commodities carried in each relevant service, inbound and outbound, with the long tons and revenue tons of each for the latest calendar year for which the information is available.

(l) *Mini-land bridge, relay and feeder.* For the two latest calendar years for which the information is available, each party shall give in long tons and revenue tons for each relevant service the cargo carriage included in paragraph (j) of this section, subdivided in the same manner, and further classified as:

(1) By mini-land bridge within or through the United States;

(2) By water relay; and

(3) By feeder carriage between one foreign country and another (each to be specified).

(m) *Vessel utilization.* Each party shall give its vessel utilization, outbound and inbound, in each relevant service for the latest three full calendar years expressed as a percent of ABS design capacity. If only containers or barges are carried, utilization shall be expressed in TEU or barge slots available and used; for other vessels both DWT and bale cubic available and used. If possible, each party will provide a count of the mix of 40, 35, and 20 ft. vans that it carried.

(n) *Conversion factors.* Each party shall give the average long tons and revenue tons per container, TEU or barge in each relevant service, outbound and inbound, separately for commercial and for military cargo, for the last two full calendar years.

(o) *Agreements and arrangements.* Each applicant shall identify or make available for inspection documents relating to all conferences, tariffs and Section 15 agreements to which it is a party with respect to the relevant services.

(p) *Studies, plans, and forecasts.* Each party shall furnish a copy of all relevant studies, plans, and forecasts made within the past two years by an officer, director, or employee of the party or by a consultant for the party which has been adopted by the party. Adoption means approval, use or consideration of such studies, plans and forecasts by top management in the formation or review of operational plans. Any claim of confidentiality shall be addressed to the Presiding Officer.

§ 208.3 Standard procedures for determining adequacy or inadequacy of U.S.-flag liner service.

(a) *Projected adequacy or inadequacy determination.* The determination of future adequacy or inadequacy of U.S.-flag service shall be based on forecasts of cargo and capacity determined under the statistical procedures set forth in §§ 208.4 and 208.5, except as provided in paragraph (c) of this section.

(b) *Source of forecasted information.* Applicant and intervenors will provide forecasts of the future cargo pool and future U.S.-flag vessel capacity using the standard procedures set forth in §§ 208.4 and 208.5, except as may be provided in paragraph (c) of this section.

(c) *Exceptions to standard procedures.* All presentations of future adequacy or inadequacy of U.S.-flag service shall comply with the Standard Procedures, except as provided in paragraphs (c)(1) and (2) of this section:

(1) *Substitution of Lesser or No Methodology.* Upon showing of good cause the Presiding Officer or Administration can permit a lesser, simpler methodology of projecting adequacy or inadequacy in unusual circumstances such as an application for a six month extension of an ODS contract.

(2) *Modification to Standard Methodology.* The standard methodology shall be used to produce the baseline results. However, any party may make motion to a Presiding Officer or Administration to approve for good cause shown modifications to the procedure or formula based on results of an initial application of the model.

(d) *Standard Units of Measurements.* Conversion of vessel capacities in terms of bale cubic space or TEUs to long tons will be required for comparison with the forecasted cargo pool, also expressed in long tons. Long tons has been adopted as the unit of comparison because it is presently the standard unit of measurement employed by the industry.

§ 208.4 Procedure used in cargo projection model.

(a) *U.S. Exports.* The following steps shall be followed to calculate U.S. export cargo projections on a trade route or group of trade routes, or parts thereof:

(1) Forecast export volumes by commodity based on relevant macroeconomic variables reflecting economic activity in the country of final destination. Such information is readily available from a number of international organizations. All commodities moving in significant volumes on the subject trade routes must be considered.

(2) Develop functions to determine statistically valid trends, if any, in waterborne shares of export volumes by means of time series analysis using Bureau of Census data sources. If statistically valid trends do not exist, provide point estimates of shares for each period forecasted and a justification for the methodology used. Apply such trends or point estimates of shares to export volumes forecasted above to generate a forecast of waterborne volumes by commodity.

(3) Develop functions to determine statistically valid trends, if any, in type of service (liner, non-liner, tanker) shares of waterborne volumes by means of time series analysis using Bureau of Census data sources. If statistically valid trends do not exist, provide point estimates of shares for each period forecasted and a justification for the methodology used. Apply such trends or point estimates of shares to waterborne volumes forcasted above to generate a forecast of type of service volumes by commodity.

(4) Develop functions to determine statistically valid trends, if any, in trade route or combination of trade route shares of waterborne volumes by type of service by means of time series analysis using Bureau of Census data sources. If statistically valid trends do not exist, provide point estimates of shares for each period forecasted and a justification for the methodology used. Apply such trends or point estimates of shares to type of service volumes forecasted above to generate a forecast of trade route volumes by commodity.

(5) Develop functions to determine statistically valid trends, if any, in U.S. coastal district and foreign port shares of trade route volumes by means of time series analysis using Bureau of Census data sources. If statistically valid trends do not exist, provide point estimates of shares for each period forecasted and a justification for the methodology used. Apply such trends or point estimates of shares to trade route volumes forecasted above to generate a forecast of U.S. coastal district and foreign port volumes by commodity.

(b) *Imports.* The following steps will be followed to calculate U.S. imports cargo projections on a trade route or group of trade routes or parts thereof:

(1) Forecast import volumes by commodity based on relevant macroeconomic variables reflecting economic activity in the United States as country of final destination. Such information is readily available from the Department of Commerce and private industry sources. All commodities moving in significant volumes on the subject trade routes must be considered.

(2) Develop functions to determine statistically valids trends, if any, in waterborne shares of import volumes by means of time series analysis using Bureau of Census data sources. If statistically valid trends do not exist, provide point estimate of shares for each period forecasted and a justification for the methodology used. Apply such trends or point estimates of shares to import volumes forecasted above to generate a forecast of waterborne volumes by commodity.

(3) Develop functions to determine statistically valid trends, if any, in type of service (liner, non-liner, tanker) shares of waterborne volumes by means of time series analysis using Bureau of Census data sources. If statistically valid trends do not exist, provide point

estimates of shares for each period forecasted and a justification for the methodology used. Apply such trends or point estimates of shares to waterborne volumes forecasted above to generate a forecast of type of service volumes by commodity.

(4) Develop functions to determine statistically valid trends, if any, in trade route or combination of trade route shares of waterborne volumes by type of service by means of time series analysis using Bureau of Census data sources. If statistically valid trends do not exist, provide point estimates of shares for each period forecasted and a justification for the methodology used. Apply such trends or point estimates of shares to type of service volumes forecasted above to generate a forecast of trade route volumes by commodity.

(5) Develop functions to determine statistically valid trends, if any, in U.S. coastal district and foreign port shares of trade route volumes by means of time series analysis using Bureau of Census data sources. If statistically valid trends do not exist, provide point estimates of shares for each period forecasted and a justification for the methodology used. Apply such trends or point estimates of shares to trade route volumes forecasted above to generate a forecast of U.S. coastal district and foreign port volumes by commodity.

§ 208.5 Procedure used in capacity projection model.

(a) *Capacity Formula.* The following steps shall be followed to calculate liner vessel capacity on a trade route or groups of trade routes or parts thereof.

(1) List net cargo capacity of vessels by vessel class, service and company—for full containerships by TEU and DWT, for full breakbulk ships by bale cubic and DWT; and for any combination by TEU, bale cubic and DWT.

(2) List actual vessel sailings for most recent calendar year for each vessel class for each service and company.

(3) Allocate capacity among trade routes or components thereof by:

(i) Actual cargo tonnage (e.g., from MarAd 002 Report), or

(ii) Carrier reported cargo carriage (this method reflects carrier pattern of vessel employment which does not necessarily coincide with actual cargo flows); and

(iii) Make adjustment for any significant factors such as strikes, riot, war, revolution, etc.; and

(iv) Make adjustment for off route carryings due to feeder or other carriage.

(4) Set forth stowage factors for each vessel class for each company and dominant direction of trade route and/or specific segments of trade route(s) expressed as follows:

(i) Breakbulk—cubic feet.

(ii) Container—LT per TEU.

(5) Using trade weighted stowage factors where necessary for each vessel class, calculate maximum capacity for that vessel class per sailing as follows:

(i) For containers—Average TEU × weighted Average Stowage Factor × Seasonality or Utilization Factor.

(ii) For breakbulk—Average Space ÷ Weighted Average Stowage Factor × Seasonality or Utilization Factor.

(iii) For combination—Add results for container and breakbulk.

(6) Check maximum capacity derived from applying paragraph (a) (5) of this section against net cargo weight capability determined under paragraph (a)(1) of this section. If maximum capacity exceeds net cargo weight capability, apply paragraph (a) (7) and (8) of this section, and otherwise apply only paragraph (a)(9) of this section.

(7) Calculate vessel class capacity by trade route as follows:

Total Long Ton Capacity = Average Vessel TEU × Sailings × Allocation of Trade Route Percentage × Stowage Factor for that Trade Route + Average Vessel Breakbulk Space × Sailings × Allocation of Trade Route Percentage ÷ Stowage Factor for that Trade Route

(8) If net cargo capability derived by applying paragraph (a)(7) of this section is less than that listed in (1), reduce average vessel TEU long tons and breakbulk long tons by the ratio of net cargo capability derived from paragraph (a)(7) of this section to maximum capacity derived from paragraph (a)(5) of this section.

(9) Total all carrier vessel group capacity by trade route direction.

(b) *Example.*

(1) Single Group of Full Container Vessels, Single Service—Three Companies; 3 Vessels—20,000 DWT = 60,000 DWT; 3 Vessels—1,000 TEU = 3,000 TEU.

(2) 20 Annual Sailings = 60 Annual Sailings.

(3) 100% Employment on 5–7–8–9.

(4) Stowage Factor for Applicant—8.0 Tons Weighted Stow Factor.

USL 7.0 × Percent of Trade 30% =	2.1
SL 9.0 × Percent of Trade 50% =	4.5
AEL 8.0 × Percent of Trade 20% =	1.6
Total	8.2

(5) 1,000 × 8.2 = 8,200 Tons × 90% = 7,380 Tons.

(6) 7,380 Not greater 20K.

(9) 7,380 × 60 Annual Sailings = 442,800 LT.

PART 251—APPLICATIONS FOR SUBSIDIES AND OTHER DIRECT FINANCIAL AID

3. In Part 251 (Applications for subsidies and other direct financial aid) add new §§ 251.12 and 251.13 as follows:

§ 251.12 Applications for liner service.

Along with each application, every applicant for operating-differential subsidy for a liner service shall, to the extent available, file five copies of the information required under the Standard Discovery Order (46 CFR 208.2), paragraphs (b)(1)–(10), (c), (g)–(j): *Provided,* Such data shall be limited to the trade routes involved in the application. Applicant shall also file the data required under § 251.13.

§ 251.13 Traffic data.

(a) Show, from the information contained in Report 002, the carriage of commercial cargoes on liner vessels, on the route or routes to be covered by said contract, for the three most recent calendar years for which such data is available, in the following form [000L/T]:

Trade route [or coastal U.S. range/ foreign country	Outbound			Inbound		
	Total	U.S. Flag	U.S. %	Total	U.S. Flag	U.S. %

(b) If the applicant proposes to operate a full containership service, give the same information with respect to container cargo based on Report 005.

(Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (46 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91–469 (84 Stat. 1036); Department of Commerce Organization Order 10–8 (38 FR 19707, July 23, 1973)).

Dated: June 20, 1979.

By order of the Assistant Secretary/ Maritime Subsidy Board/Maritime Administration.

Robert J. Patton, Jr.,

Assistant Secretary, Maritime Subsidy Board.

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FEDERAL COMMUNICATIONS COMMISSION

[47 CFR PART 15]

[Gen. Docket No. 79-144; FCC 79-364]

Inquiry Concerning Biological Effects of Radio Frequency Radiation When the Use of Radio Frequency Devices Is Authorized; Potential Effects of a Reduction in the Allowable Level of Radio Frequency Radiation on FCC Authorized Communications Services and Equipment

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The FCC adopted a *Notice of Inquiry* which solicits public comment in two areas: (1) what the effect of different radio frequency radiation exposure standards, under consideration by the health and safety agencies, will be on the services it licenses and the equipment it authorizes; and, (2) if and under what circumstances it would be appropriate for the FCC to adopt regulations, on an interim basis, to protect the health of employees who may be exposed to RF radiation levels in excess of the existing National stanadard. Studies have shown that the National standard is being exceeded in some instances, and discussions with the health and safety agencies indicate that new or stricter exposure standards may be adopted necessitating initiation of this action. The information received in response to this *Notice of Inquiry* will be used to comment in the rule making proceedings of the health and safety agencies and as the basis for interim rules by the FCC.

DATES: Comments must be received by December 15, 1979, and Reply Comments must be received by March 15, 1980.

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

FOR FURTHER INFORMATION CONTACT: Will McGibbon, Office of Science and Technology, (202-632-7060).

In the matter of responsibility of the Federal Communications Commission to consider biological effects of radio frequency radiation when authorizing the use of radio frequency devices and potential effects of a reduction in the allowable level of radio frequency radiation on FCC authorized communications services and equipment; Notice of Inquiry

Adopted: June 7, 1979.

Released: June 15, 1979.

By the Commission: Commissioner Fogarty absent.

Introduction

1. The Federal Communications Commission is initiating this Inquiry to gather information and views that will assist it in establishing the course it should pursue in fulfilling its regulatory responsibility to promote communications by radio in light of the increased concern about the biological effects of radio frequency radiation. Publicity over the irradiation of the U.S. Embassy in Moscow, Senate Hearings on Radiation, Health and Safety,[1] the recent Canadian proposal to lower the limits of exposure of the general population to non-ionizing radiation[2] and numerous reports on radio frequency radiation appearing in the media, have all combined to increase public awareness and interest in radio frequency radiation. As a result, the Commission is receiving an increasing number of inquiries about the health effects of the facilities and equipment it authorizes. While we believe it is important to gather additional information and views to aid us in meeting our regulatory responsibilities, we want to emphasize that, so far as we are aware, the experimental data does not show that there is danger to the public at large from the thermal effects of radio frequency (RF) radiation. However, there are considerable differences of opinion about the biological effects of low level (i.e. non-thermal) and long term RF radiation. (See note 13, *supra.*)

2. Other Federal agencies with responsibility in the area of public health[3] may act in response to this increased public concern by initiating or accelerating rulemaking that may result in stricter Federal safety standards to reduce or limit the level of radio frequency radiation.[4] It is important that the Commission have at its disposal sufficient information to interpret the impact of any such proposed standards and to comment on each proposal.

3. This Inquiry is therefore designed to serve two purposes. We hope to gather information to: (1) assist us in determining whether it is appropriate for us to take any action under existing standards now applied by the health and safety agencies; and (2) provide documentation so that we may adequately participate in any rule making proceedings of these other agencies to ensure that any standards adopted adequately takes into account the impact of any proposal on the licensees and equipment we regulate.

A Simplified Explanation of the Problem[5]

4. Electromagnetic radiation that may be a potential hazard to humans is either ionizing or nonionizing. The distinction between the two types of radiation is the amount of energy contained in a wavelength. As the frequency increases, the wavelength decreases and the amount of energy it contains is increased, i.e. as frequency increases, the amount of energy increases.

5. Ionization occurs when radiation displaces an electron from an atom. These electrons in turn may ionize other

[1] Radiation Health and Safety, Hearing before Committee of Commerce, Science, and Transportation, U.S. Senate, 95 Cong. 1st Sess. (June 16, 17, 27, 28, and 29, 1977) Serial No. 95-49 at 89.

[2] *Installation and Safety Procedures for Radiofrequency and Microwave Devices in the Frequency Range 10 MNz-300 GHz*, RPB-SC (1978) Radiation Protection Bureau, Health and Welfare Department, Canada.

[3] The Environmental Protection Agency, (EPA) and the Occupational and Health Administration (OSHA) both have jurisdisdiction over various regulatory programs relating the RF radiation, including authority to set exposure standards. EPA, under the Reorganization Act No. 3, of 1970, is responsible for advising the President with respect to radiation matters directly or indirectly affecting health, including guidance of all Federal agencies in the formulation of radiation standards and the establishment and execution of programs of cooperation with States. EPA also is responsible for collecting and providing information to the public on environmental levels of radiation. *Radiation Health and Safety, supra* note 1, at 89, 1970 U.S. Code, Cong. and Admin. News 6322. OSHA, which is under the Department of Labor, has responsibility for assuring that all employees in the Nation are provided safe and healthful working conditions by their employers. 84 Stat. 1590, 29 U.S.C. Section 651, 654 (1975).

Within the Department of Health, Education and Welfare (HEW), the Bureau of Radiological Health (BRH) also has responsibilities in the area of radio frequency exposure and emission limits. The Radiation Control for Health and Safety Act of 1968, gives the Secretary of HEW the authority to carry out an electronic product radiation control program which includes emission standards for electronic products. BRH is responsible for the day to day operation in carrying out the Act's mandate for an electronic product radiation control program. *Radiation Health and Safety, supra* note 1, at 583. *Id.* at 39.

New York City has proposed to change their health code to set a maximum permissible level of 50 uW/cm ^{2} averaged over any 0.1 hour period for all frequencies about 10 MHz. Proposed Amendment to Article 175 of the New York City Health Code to add a new Section 175.125: Microwave and Other Radiofrequency Equipment (June 22, 1978).

[4] Over 9 million dollars are spent annually by the Government to fund inhouse and contract research projects in the area of *Biological Effects of Non-ionizing Electromognetic Radiation*, so it would be impossible to adequately summarize the experiments of other agencies here. Those interested in the scope and content of this effort should consult a quarterly digest of this same name prepared by the Franklin Research Center for the National Telecommunication and Information Agency, B. H. Kleinstein and E. P. Sabol (Ed.)

[5] This explanation, paragraphs 3-9, is based on a similar summary submitted by Dr. Stefan O. Schiff during the *Radiation Health and Safety* hearing. *Ibid.* note 1 at 11.

atoms; approximately 30 electron volts (eV) of energy are required to produce one ionization. Radiation with short wavelengths and high energy, such as x-rays and gamma rays, contains sufficient energy to cause ionization. Radiation with longer wavelengths and less energy, such as ultraviolet,[6] infrared, and radio frequencies, does not possess enough energy to produce ionization. The frequencies the Commission presently regulates (10 kHz–300 GHz) do not have sufficient energy to cause ionization and are therefore classified as non-ionizing. In this proceeding we are concerned with the biological effects of non-ionizing radiation from all radio frequencies from the top of the microwave[7] and down; that is, 300 GHz to 0.0 Hz (i.e. direct current or DC).

6. The parameter most commonly used to measure the relative capacity of radio frequency (RF) radiation to produce an observable effect on biological material is the power density. The amount of RF energy absorbed depends upon the electrical properties of the tissues (dielectric constants and conductivity); in general, tissues with high water content will absorb relatively greater amounts of RF energy. Theoretically, the higher the frequency, the less deeply it penetrates.

7. The means whereby FR energy produces damage is still controversial. RF with power densities of 100 mW/cm^2[8] or greater is generally conceded to be capable of causing thermal damage to biological tissue although such damage may not always occur, and any damage suffered may be reversible. Experiments with animals have shown that prolonged whole body irradiation leads to hyperthermia (over-loading of the temperature regulatory system of a mammal) and possible death.[9] Data on humans are derived primarily from acute accidental exposures to microwave generating equipment and from retrospective studies of occupationally exposed personnel. Although the radiation responses of several types of mammals are similar to those of human beings, the validity of extrapolation of experimental animal data to humans is questionable, especially with respect to the quantity of radiation necessary to produce a given effect.

8. The physical organ studied in the greatest detail is the eye. It is well documented by R. L. Carpenter[10] and others that lens opacities (cataracts) may be induced in rabbits after exposure to 180 mW/cm^2 or more of microwave radiation. More recent experiments with rabbits by the Bureau of Radiological Health (BRH) concludes that repeated exposure of rabbits to 10–12 mW/cm^2 did not cause cataract formation.[11] Thus the exact level at which this type of radiation damage can be induced (between these two extremes), the mechanism causing the cataract formation, and the applicability of these results to humans is unknown at this time.

9. Determining thresholds for radio frequency damage is, we understand, exceedingly difficult not only because of the low energy involved, but also because of the large number of experimental variables. American National Standards Institute (ANSI)[12] currently has a safety standard of 10 mW/cm^2. This standard derives from studies demonstrating that 100 mW.cm^2 was the lowest power density resulting in thermal damage.[13] ANSI concluded that a safety factor of 10 would be sufficient, and set their standard at 10 mW/cm^2. This standard was adopted by OSHA in 1971[14] and thereafter incorporated in the Commission's procedures for implementing the National Environmental Policy Act.[15] Although the enforceability of this standard has been questioned,[16] the substantive basis on which the 10 mW/

[6] The lower end of the ultraviolet band is the boundary between the frequencies that have sufficient energy to cause ionization in living matter and those which do not. Frequencies below this boundary are therefore referred to as nonionizing.

[7] The term "microwave" has historically been used as a shorthand name for radio frequency radiation in the 300 to 300,000 Mhz range. Radiation in that band has wavelengths between 100 cm. and 1 mm. (e.g. *See* Websters Seventh New Collegiate Dictionary (1969) at 539). This definition of the term has been blurred by popular usage, so that radio frequency industrial heaters are now called "microwave heaters" and fixed point-to-point communications installations operating below 300 MHz are now called "microwave" towers. These services are often actually in the "metricwave" band (i.e. in the 30 MHz to 300 MHz range).

[8] The radio frequency (RF) power density is given in watts (W) per square meter (m^2) or milliwatts (mW) per square centimeter (cm^2). In this Notice we are using both milliwatts (mW) and microwatts (uW) to express the amount of RF power density being discussed. The conversion between these two units is: 1 mW = 1,000 uW (e.g. 10 mW = 10,000 uW and 100 mW = 100,000 uW).

[9] *See for example, A Technical Review of the Biological Effects of Non-Ionizing Radiation,* A Report Prepared for the Office of Science and Technology Policy by an *Ad Hoc* Working Group (May 15, 1978), Appendix C(a)(2), "Intensities", at C–14. See also, "Human Exposure to Non-Ionizing Radiant Energy—Potential Hazards and Safety Standards" S. M. Michaelson, 60 *Proceedings of the IEEE* 389 (No. 4) (April, 1972) at 407; *Microwave Bioeffects and Radiation Safety,* M. A. Stuckly (Ed.) *Transactions of the International Microwave Power Institute,* Vol. 8 (1978).

[10] "Histopathological Changes During Development of Microwave Cataracts", R. L. Carpenter *et al., Symposium on Biological Effects and Measurement of Radio Frequency/Microwaves* (February 16–18, 1977) at 351. Acute Microwave Irradiation and Cataract Formation in Rabbits and Monkeys, P. Kramer *et al., Journal of Microwave Power,* 13(3), (1978) at 239.

[11] *Chronic Low Level Exposure of Rabbits to Microwaves,* HEW (FDA) 77–8010 Vol. 1 (December 1976).

[12] ANSI is a private organization that devises safety standards to guard against and minimize injury to workers, to provide direction to employers responsible for its application and to guide regulatory bodies in the development, promulgation and enforcement of appropriate safety directives.

[13] The adequacy of the present standard is the subject of some controversy. The U.S.S.R. and other Soviet Bloc countries set a lower general population exposure standard based on non-thermal effects of RF radiation they believe have been shown by their experiments. These results have not been verified by scientists in this country. A number of American researchers, such as Sol M. Michaelson think that the 10 mW/cm^2 standard affords adequate protection. Others, including some American, Soviet, and Polish researchers, have a contrary view. The U.S.S.R. has a civilian exposure standard of 1 uW/cm^2 for the general population and 10 uW/cm^2 for the occupation groups for unlimited exposures. The exposure limit used by the Soviets is raised to 100 uW/cm^2 for occupational groups for exposure periods of up to 2 hours in a 24 hour period, and to 1 mW/cm^2 for occupational groups for exposure periods of up to 20 minutes in a 24 hour period. Permissible exposure under the Soviet standard is ten times as great for radiation movable beams or antenna (i.e. up to 10 mW/cm^2 for occupational exposures of less than 20 minutes in a 24 hour period). Emission and Exposure Standards for Microwave Radiation, M. H. Repachali *et al.,* Paper No. 77114, IEEC & E, '77, Session No. 11.

[14] On April 28, 1971 OSHA became effective. This Act was passed "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions" and was to be achieved in part "by building upon advances already made through employer . . . initiative for providing such conditions." 29 U.S.C. 651. OSHA section 6(a) temporarily authorized the Secretary swiftly to adopt under OSHA without notice or hearing non-mandatory standards published by nationally recognized private standard setting organizations. 29 U.S.C. 652(9), 655(a), OSHA section 6(a) provided the first step in implementing these statutory goals by directing the Secretary "as soon as practicable" to promulgate as a mandatory occupational safety and health standard without notice and hearing, "any national consensus standard . . . unless he determines that . . . promulgation . . . would not result in improved safety or health for specifically designated employees." 29 U.S.C. 655(a). In accord with this directive, the Secretary of OSHA determined that the ANSI non-ionizing radiation standard had been adopted and promulgated under procedures qualifying them as "national consensus" standards, and promulgated the standard as safety requirements under OSHA. OSHA, "National Consensus Standards and Established Federal Standards", 36 F.R. 10522 (No. 105).

[15] *See, e.g., In re: Application of Far East Broadcasting Inc., Memorandum Opinion and Order,* F.C.C. 77–527, 65 F.C.C. 2d 496 (1977) at para. 18; *Establishment of Domestic Communications-Satellite Facilities by Non-Government Entities,* 38 F.C.C. 2d 665 (1972); and *Implementation of the National Environmental Policy Act of 1969,* 49 F.C.C. 2d 1313 (1974), especially note 12, at 1327 and Appendix 3, at 1386.

[16] The OSHA standard was ruled unenforceable by an OSHA administrative law judge and the decision was never appealed. *See, In re: Swimline Corp.* OSHRC Docket No. 12715, Dec. 31, 1975; CCH Employment Safety and Health Guide Para. 20, 379, at 24, 308–24, 311 (February 17, 1976).

cm^2 level was selected has not been legally questioned or criticized.

The Commission's Statutory Obligations

11. As the agency responsible for promoting safety of life and property through the use of wire and radio communications, and making available, as far as possible the use of radio in the public interest, the FCC has long been concerned with biological effects of RF radiation emitted by radio frequency devices.[17] The Commission has also been working with other agencies having jurisdiction in the biological effects area to optimize the effectiveness of Government-wide efforts in this area. Since 1969 the Commission has worked under a cooperative arrangement with the Bureau of Radiological Health (BRH), sharing facilities (e.g. the use of our Laboratory Division's facilities by BRH to check consumer microwave ovens for compliance with their emission standard) and information in the field of microwave oven performance standards and testings. The Commission also has an official observer to the Electromagnetic Radiation Management Advisory council, which advises the National Telecommunications and Information Administration in the area of electromagnetic radiation policy. The Commission also has representation on several interagency working groups formed to facilitate coordination of government activities and the exchange of information in the area of radiation.

12. The Commission's interest in the biological effects of non-ionizing radiation flows from two basic areas of statutory responsibility. The Commission has licensed the millions of non-government transmitters now in use throughout the Nation and is granting additional licenses at an accelerating rate. In addition, under Parts 15 and 18 of our Rules we authorize microwave ovens, industrial heaters and many other types of unintentional radiating equipment.[18] The Commission's actions as a Federal Government regulatory agency must be consistent with the dictates of our organic statute and the National Environmental Policy Act (NEPA).[19] The communications Act requires us to promote the use of radio communications service ". . . for the purpose of promoting safety of life . . ." and to exercise our power ". . . as the public convenience, interest, or necessity requires."[20] If another agency of the U.S. Government, such as the Environmental Protection Agency (EPA) or Occupational Safety and Health Administration (OSHA), promulgates non-ionizing exposure standards that we thought might be exceeded by an authorized facility, it would be incumbent upon the Commission to consider that agency's determination in our licensing or certification requirements.

13. Moreover, in addition to these implied responsibilities under the "public interest" standard, the Commission, as a Federal Agency, has certain explicit responsibilities under NEPA. Section 102(2)(c) of that statute requires all Federal agencies to consult with and obtain the comments of expert Federal agencies before taking any major action significantly affecting the quality of the human environment. EPA and OSHA (as well as BRH) are the regulatory agencies in the biological effects area. If a contemplated Commission action might create a situation where the resulting RF radiation levels would exceed an exposure guideline or standard by one of these agencies, we would be required to consult the concerned agency before acting.

14. Following such consultation, the Commission may have to prepare an environmental impact statement that would become part of the record on which the Commission bases its decision. The Commission's present policy is to require licensees and manufacturers of authorized equipment to observe applicable exposure safety standards.[21]

15. The Commission, as well as the affected industries, cannot ignore the possibility that one of the health agencies may promulgate stricter standards for radio frequency energy emission [22] or for RF radiation exposure where excessive power densities could pose a potential biological hazard to people. In that event, the Commission must consider those new standards with the possible result that some of these entities will be required to adjust their operations or equipment accordingly.

16. The issue of exposure standards for RF radiation is also related to the Commission's statutory obligation to ". . . make available, so far as possible . . . a rapid efficient . . . communications service . . . at reasonable charges . . . and to prevent interference between stations. . . ."[23] As a result of these responsibilities, the Commission must consider the effect of any particular proposed standard on radio services that it licenses and the equipment it approves. We must be certain that these services are not *unnecessarily* impaired by overly restrictive standards. This is not to imply that the Commission would propose to compromise the health and safety of the public, including communications workers. It means simply that the Commission wishes to ensure that the need for any stricter standard percieved by the policy makers in OSHA and EPA justifies the cost it may impose on the public (*e.g.*, the cost of purchasing new equipment or the effect of reduced radio communciations system services).

17. A balance must be achieved between serving the public interest by fulfilling its needs for communications services and adequately protecting the populace against potentially adverse biological effects that may be attributable to excessive RF radiation. Thus, prior to any further action by these agencies, the Commission could make available to them information reflecting the cost of different standards to the communications industry, to communications service and to users of other radio frequency devices. This cost may be in terms of greater expense to provide a radio service or a reduction in the quality of the service. It is possible for an emission or exposure standard to be set at such a low level that some radio services would not be operationally feasible irrespective of

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[17] *See* note 15, *supra*.

[18] 47 C.F.R. 18.1, *et seq.* this type of equipment, grouped under the category of "Industrial, Scientific and Medical Equipment," may be operated without an individual license after it receives FCC certification that it complies with our technical and equipment approval requirement. This section of the rules is being revised in a current rulemaking proceeding. Docket No. 20718, *Second Notice of Proposed Rulemaking*, 44 F.R. 9771 (February 15, 1979).

[19] National Environmental Policy Act, 83 Stat. 852, 42 U.S.C. 4321–4347 (1977).

[20] The Communications Act of 1934, as amended, 48 Stat. 1064, 1082, 47 U.S.C. Sections 151 and 303 (1978).

[21] *See Report and Order in Docket No. 19555, Implementation of the National Environmental Policy Act* of 1969, FCC 74–1042, 49 F.C.C. 2d 1313 (1974), expecially note 12 and Appendix 3. Although the OSHA standard may, subsequent to the adoption of this *Report & Order*, in Docket No. 19555, have been ruled unenforceable because it was written in permissive rather than mandatory language, the validity of reasonableness of the standard adopted by OSHA has never been challenged. (*See* note 16, *supra*).

[22] An emission standard is a standard which would set a limit or maximum on the amount of RF energy that any particular type of device could radiate. The Bureau of Radiological Health has jurisdiction to establish this type of safety standard. To date, the only device for which RF (non-ionizing) radiation standards have been set is the "microwave" oven. Exposure standards are standards which would set a limit or maximum on the amount of RF energy that people would be allowed to be exposed to from all sources in different environments. EPA has jurisdiction to set exposure standard to protect the health of the general public, but has not done so yet. OSHA has jurisdiction to set exposure standards to protect the health of workers.

[23] 48 Stat. 1064, 1082, 47 U.S.C. § 151 and 303 (1978).

willingness to invest in more expensive equipment.

18. The determination of the cost to RF energy users resulting from different standards is significant undertaking. The Commission needs a definition of the various electromagnetic evnironments that it is currently creating by authorizing stations and equipment.[24] If we are to have information that would be helpful to the health agencies, this must be followed by economic analyses to ascertain the cost of a change in an environment to comply with a particular standard. This environmental information should be acquired not only for individual RF emitters, but also for combinations of emitters that may be operating in a single geographic area. Some of the information can be derived by analysis, but most of it will require monitoring with test instruments. Such measurements are complex, time consuming, and expensive.

19. To act to ensure that a health and safety standard-setting agency has adequate information on the effect of a standard on manufacturers of RF devices, FCC licensees, and radio communciations services to the public, the Commission must have statistical information and studies that can be provided, at least in part, by segments of the industry and the public. This Notice invites private industry and the general public to provide us with appropriate information. The questions listed below are examples of the kinds of data we think relevant for the Commission to be able to assess the effects of various particular standards on the RF energy users and devices we authorize. On the basis of the response to this Inquiry and other information, the Commission will forumlate its position on any furhter guidelines or standards that may be proposed by the agencies directly responsible for setting RF radiation health standards.

20. In addition, on the basis of information responsive to this NOI, it may be appropriate to propose regulations to require those operating under our authority to meet the current consensus standard. For example, until OSHA adopts regulations to implement its current standard, the Commission might adopt a rule requiring licensees to post warning signs or in some other way notify the public and workers that they are entering a hazardous area, and to take reasonable measures to protect against potentially dangerous radiation. The Commission's position is that it has neither the responsibility nor the authority to establish health and safety radiation standards. It does, however, have the responsibility and the authority to consider the guidelines or standards issued by other Government agnecies such as the EPA, BRH or OSHA. *See Report and Order in Docket No. 19555,* 49 F.C.C. 2d 1313 (1974).

Current Data on RF Radiation Levels

21. In October of 1975 the EPA began measuring the level of RF radiation from all sources at 373 sites in twelve cities. Values of power densities measured typically ranged from .0001 to 10 uW/cm².[25] The data showed that FM radio and VHF television transmitters are the most significant environmental sources of RF radiation, but these levels are relatively low compared to the ANSI [26] and OSHA expsoure guide of 10 mW/cm².[27] It should be noted that these measurements were made to determine the radiation environment to which the general population is exposed. EPA stated in their Technical Report, ORP/EAD–77, Non-ionizing Radiation Levels and Population Exposure in Urban Areas of the Eastern United States, that:

> The measurement sites were selected primiarly on the basis of population distribution, i.e. sites which cover the most heavily populated areas. Additional criteria were the geographic area to be covered and the distribution of source of radio-frequency radiation.[28]

22. EPA reported on radiation intensisties at Mt. Wilson, California in a Technical Note issued in April of 1977.[29] The area surveyed was a multistation broadcast installation (27 broadcast stations—12 FM radio and 15 television) and represented what EPA thought might be the most dense electromagnetic environment for public exposure in the United States. Using a variety of test instruments to cross check results, the investigators found maximum radiation levels at ground level to be in the range of 1–7 mW/cm², but the report stated that "the higher end of this range will be encountered near conducting objects and usually encompass only small areas of concern. Levels near 1 mW/cm² may be more common and are likely to be present near the base of FM broadcast towers."

23. It is clear from these data that the EPA results thus showed radiation levels below the ANSI exposure standard of 10 mW/cm² but above the general population long term exposure standards of 1 mW/cm² in force or under consideration by several countries including Canada and Sweden. Although these results cannot be extrapolated to urban environments generally,[30] they do suggest that multistation broadcast installations may be special problem areas if a general population exposure standard of less than 10 mW/cm² is adopted.

24. In contrast to the general population data, EPA issued a Technical Note, ORP/EAD–76–2, *A Measurement of R. F. Field Intensities in the Immediate Vicinity of FM Broadcast Station Antenna,* which states:

> In a recent study of broadcast radiation levels, measured values of the radiation intensity of an FM broadcast tower were obtained. The measured values could lead to exposures in excess of established standards and suggest the need for corrective action to protect *operating and maintenance personnel* who must climb these towers (emphasis added).[31]

The values EPA measured on the tower were in excess of 180 mW/cm², the maximum value their instrument could measure. It is generally agreed in the bio-effects community that power densities that exceed 100 mW/cm² will cause thermal reactions in humans and if exposure is prolonged, thermal damage may occur.[32] This station transmitted at a level of 105 kilowatts on a continuous basis using a circularly polarized antenna. At ground level, EPA found power densities of 1.9 mW/cm², which is consistent with the results of

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[24] *See, Notice of Inquiry on Radio Frequency Interference to Electronic Equipment,* FCC 78–801, General Docket No. 78–369, 47 F.R. 56062 (November 30, 1978).

[25] The "power density" is a unit used to measure how much RF energy is reaching the organism being irradiated. Power densities above a critical level might indicate a potentially harmful situation. See, paragraph 7 and note 9, *supra. Population Exposure to VHF and UHF Radiation in the United States,* ORP/EAD 78–5 (June 1978), R.A. Tell and E.D. Mantiply at iv; *Radiofrequency Radiation Levels and Population Exposure in Urban Areas of the Eastern United States,* EPA–520/2–77–008 (May 1978), T. A. Athey *et al.,* at 5.

[26] ANSI, Safety Levels of Electromagnetic Radiation With Respect to Personnel, ANSI, C95.1–1974, IEEE, New York, 1974. ANSI currently has out for industry comment a proposal to lower its RF radiation standard to 1 mW/cm².

[27] OSHA, "National Consensus Standards and Established Federal Standards", 36 FR, 10522 (No. 105), (1071). Note: The OSHA standard was ruled unenforceable by an OSHA administrative law judge and the decision was never appealed. *See, In re: Swimline Corp.* OSHRC Docket No. 12715, Dec. 31, 1975; CCH Employment Safety and Health Guide Para. 20,379, at 24,308–24,311, (February 17, 1976).

[28] *Radiofrequency Radition Levels, supra,* note 25, at 4.

[29] *An Investigation of Broadcast Intensities at Mt. Wilson, California,* ORP/EAD 77–2 (April 1977).

[30] *See Population Exposure to VHF and UHF Broadcast Radiation in the United States,* ORP/EAD 78–5 (June 1978), U.S. Environmental Protection Agency which reports, based on 11,000 measurement in 12 large cities, that the median general population level in this country is approximately 0.005 uW/cm².

[31] *A Measurement of R. F. Field Intensities in the Immediate Vicinity of FM Broadcast Station Antenna,* ORP/EAD 76–2, R.A. Tell (January 1976), at 1.

[32] *See note 9 supra.*

the other Mt. Wilson survey discussed above.

25. These EPA data suggest that, in addition to potential problems that might be created for the user of equipment we authorize by the adoption of an exposure standard below the exisitng ANSI guideline (i.e. below 10 mW/cm ^{2}, by EPA or OSHA, there may be an immediate problem of occupational safety posed by these emitting devices.

> It is clear that exposure intensities on FM broadcast towers can exceed the OSHA recommended safety level by a factor of 10. . . . While the results apply strictly to FM broadcast antennas, they raise very serious questions about the field intensities of television broadcast towers where the antenna input power can be several orders of magnitude greater . . . and (the) fields on AM antenna towers may also be of concern. . . . The most effective method of controlling excessive exposure would be to turn off or drastically limit the power fed to the antenna while the necessary work is done. This would probably require a rule making procedure by the FCC or promulgation of specific work procedures for broadcast towers of OSHA.[33]

26. National Institute for Occupational Safety and Health (NIOSH) has made field strength measurements near some of the Industrial Scientific and Medical (ISM) equipment the Commission approves. The conclusions of one report on these measurements states:

> Measurements of RF (15 to 40.68 MHz) electric and magnetic-field-stength exposures generated by power sources having application in the textile, lumber and plastics industries are presented. Measurements were taken for near-field conditions (at distances less than one meter from the source) where operating personnel were located. The measured electric and magnetic-field-stength exposures showed no clear dependence on the RF power output. The field-strength exposures were compared to the ANSI § C95.1–1974 RF/Microwave Personnel Exposure Standard radiation exposure guides. This comparison revealed that 90% of the sources measured exceeded the electric-field-strength guide of 200 V/m and 80% of the sources exceeded the magnetic-field-strength guide of 0.5 A/m.[34] These guides were exceeded by factors as high as five for the electric field and by as high as twenty-five for the magnetic field. Based on the information contained in the ANSI C95.1–1974 standard at least 80% of these RF power sources represent a potential personnel exposure hazard.[35]

27. A report prepared by a private engineering firm (with the technical assistance of the National Bureau of Standards) presents measurement data of power densities on the John Hancock Center television antenna towers.[36] Two sets of measurements were taken—one in July, 1975 and the second in May, 1976. The first measurement revealed several locations on the towers that exceeded the ANSI standard of 10 mW/cm ^{2}. The report explained that these high energy density areas occurred near pieces of ungrounded metallic parts of the tower. The intensity of these "hot spots" could be reduced by grounding these tower parts, but this procedure did not completely eliminate the problem. The report recommended a set of voluntary standards that could be followed when maintenance was being performed on the towers.

28. Experiments have been conducted by Mr. Q. Balzano of Motorola, Inc. into "the energy deposition of portable radio operators".[37] The tests investigated radio frequency energy deposition in simulated human operators exposed to electromagnetic fields generated by portable radio transceivers (e.g. a "walkie-talkie"). These tests were conducted at 150, 450 and 840 MHz. Transmitter power in all cases was six watts. The results of these experiments by Mr. Balzano indicated that the maximum power deposition at 840 MHz did not occur immediately below the bone-brain interface, as theoretical calculations predict, but occurred, instead, deeper in the cerebral cortex. These "absorption peak" were believed to be caused by a focusing of the electronagnetic energy by the curvature of the frontal lobe of the skull. An absorption peak was also located at the surface of the eye. According to Motorola the temperature increase associated with these "absorption peaks" is so small that no thermal damage can be caused by normal use of the radio. In general, Motorola concludes for all frequencies at which tests were conducted that portable hand-held transceivers are not biologically hazardous when operated according to recommended procedures and for short time periods.

29. Nevertheless, the results of these tests exemplify shortcomings of present theoretical methods for analyzing the effects of non-ionizing radiation. Predicting radiation levels close to the source is a complex problem where the observed results consistently disagree with the predicted results. Greater refinement of analytical tools is thus a major need. In the interim, probably the only way to accurately quantify the levels of exposure created by particular situations is direct measurement.

An Assessment of the Current Situation

30. These findings in the 900 MHz region[38] are especially significant because of the importance of the 900 MHz band to future communications systems. The Commission is currently granting licenses in two new mobile communications services (trunked and conventional private mobile radio and the public mobile telephone systems). These two services are expected to expand over the next ten years to include several million transmitters at the cost of over a billion dollars to private industry and the consumer.

31. In addition, the Commission currently has pending before it a proposal for several new 900 MHz services including an electric utility load management system that envisions a link eventually reaching every home, three new voice paging bands supporting half a million new paging users, a new two way digital paging service starting off with 25,000 hand held units, and a new personal (non-business) radio service expected to attract at least 1 million and possibly 10 million users. If implemented, these new communications systems will require investments on the order of several billion dollars by the American public. If exposure standards ultimately take into account the type of frequency sensitive absorption patterns observed in the Balzano experiments, equipment configuration, transmitter output levels, or even the overall viability of some of these new or proposed systems might be affected.

32. This Inquiry will serve to provide the Commission with information needed to participate effectively in other agency proceedings so that the effects of any changed standards on the subjects of our jurisdiction could be made known and considered by those agencies in reaching a decision as to any new standards, and to supply that

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[33] *A Measurement of R. F. Field Intensities, supra,* note 32, at 6–7.

[34] Two hundred V/m or 0.5 A/m is approximately equal to 10 mW/cm ^{2} in the far field. In this type of near field situation an additional problem exists. Because of the interdistortion of the near field radiation pattern, more or less energy may be absorbed by the object than a simple field strength measurement would indicate.

[35] *Measurement of Electric and Magnetic Field Strengths From Industrial Radiofrequency (15–40.68 MHz) Power Sources,* D. L. Conover, *et al.,* Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio, 45226 (197–).

[36] *Engineering Report to the Chicago Broadcast Antenna Committee* on Power Density Measurements, Smith and Postenko, 2000 N Street, N.W., Washington, D.C. 20036 (December 1977).

[37] Motorola, Inc. is a large manufacturer of mobile radio equipment. *See,* "A Comparison Between the Energy Deposition in Portable Radio Operators at 900 MHz and 450 MHz," Q. Balzano et al, *Record of the Twenty-Eighth Annual Conference of the IEEE Vehicular Technology Group,* (March 22–24, 1978, Denver, Colo.)

[38] The "900 MHz" region is a shorthand term for the 806–947 MHz band, and thus includes Mr. Balzano's work at 840 MHz.

information to other agencies with regulatory responsibilities in this health and safety area.

33. We emphasize that the information we request below is not for the purpose of our promulgating radio frequency radiation health and safety standards. That is a function of the health and safety agencies. However, on the basis of information provided, it may be desirable for the Commission to consider the need for applying to the subjects of its jurisdiction one of the existing safety criteria, such as the 10 mW/cm^2 short term exposure limit used by ANSI and OSHA, until OSHA has adopted regulation implementing its standard by specifying what procedures and practices should be followed by employers to protect their employees from radiation levels considered by OSHA to be harmful (i.e. 10 mW/cm^2 at present).

Matters To Be Addressed in This Inquiry

34. The subjects listed below are not exhaustive. They merely typify the Commission's areas of concern. Information not directly responsive yet relevant to the general subject matter of the Inquiry is welcome and invited. To facilitate staff review, each response should clearly state the precise topic or question being addressed.

A. Factual Information Needed

35. Please provide information on the following: (1) Information concerning the typical near-field, and in the case of very powerful radio stations, the far-field power densitities at specified distances from the following kinds of stations or devices:

(a) Hand-held transmitters operating from 25 to 900 MHz with minimum to maximum powers.

(b) Land mobile transmitting antennas with gains from 0 to 10 dB operating from 25 to 900 MHz with powers of 200 mW to 400 watts antenna input and mounted on vehicles or towers.

(c) Point to point relay transmitting antennas with gains from 20 to 50 dB operating below 300 GHz with typical and maximum radiated powers.

(d) AM radio broadcast antennas with typical and maximum powers.

(e) FM radio broadcast antennas with typical and maximum powers.

(f) Television broadcast antennas with typical and maximum powers.

(g) Industrial, scientific, and medical units at typical maximum power levels now in use.

(h) Radar transmitters (marine, police, airport, military, etc.) with typical and maximum powers.

(i) Any other sources of non-ionizing electromagnetic radiation on which experimental or empirical data is available.

(2) In discussing question 1 above, consideration should be given to how the human body close to a transmitting antenna or ISM equipment may distort the near-field radiation pattern causing changes in the Voltage Standing Wave Ratio and, if so, the effects of such changes on the absorption of the electromagnetic radiation by that human body.

3. Statistical studies relating to morbidity of electronic equipment users particularly long-term users of hand held protables, marine radio and industrial heating units. Incidence of cataracts would be of particular interest as compared to that in the general population.

B. Questions

36. Please provide answers and supporting data to the following questions:

(4) Describe the applicability (or lack thereof) of the standard adopted for microwave ovens (1 mW/cm^2 at five centimeters) to other radio equipment with appropriate adjustment for frequency and manner of use. What studies support your conclusion?

(5) Describe the pros or cons of adopting the 10 mW/cm^2 ANSI guideline if it were adopted as an interim standard pending completion of definitive studies establishing safe radiation levels.

(6) Should measurements of field intensities within the area of FCC authorized facilities be made? By whom?"

(7) Should the Commission do a study to determine what services use FM & TV towers for mounting their equipment (e.g. point-to-point transmitters, CATV receivers and Land Mobile transceiver antennas)?

(8) Should measurements of field intensities on all FM & TV towers be required? If so, how, when, where, how often and by whom? If field intensity measurements are required, how would the ability of private industry to perform the required measurements be affected by the current availability of measurement equipment?

(9) Should the Commission establish procedures for protecting personnel when working on antenna towers?

(10) Are there any procedures used by personnel in the operation, testing and maintenance of transmitting equipment that require personnel to be exposed to high field intensities? If so, what measures can be employed to reduce or eliminate such exposure?

(11) Can prediction methods be employed to determine absolute power density at locations of interest and would such methods produce sufficiently reliable results? If so, please describe the method and explain how verification was accomplished.

(12) If measurement of power densities is necessary, what problem does this pose for licensees?

(13) What possible techniques can be employed at broadcasting stations and other RF emitters to limit their contribution to cumulative power densities that may be deemed to constitute a hazard?

(14) If the cumulative power density observed at a particular location is above 10 mW/cm^2, how can contributions from individual sources be determined and how should responsibility for reducing contributions be shared?

(15) If prediction methods may be employed in determining power densities, what difficulties can be anticipated in determining radiation from antennas at angles toward the base of a tower and up to horizontal?

(16) Describe how any standard adopted should differ for the various frequency ranges and state why.

(17) If there are places frequented by people where the radiation exceeds 10 mW/cm^2, what action should be taken to reduce this level? Should grants of all radio applications which would tend to raise this level cease? Should a determination be made that a licensee or some radiation source must reduce or terminate its operation how should such a determination be made?

(18) Reduction in output power could have a deleterious economic effect on several of the radio services. It could also cause a reduction in service to the public. Does a health risk, no matter how small, outweigh economic loss or service cutbacks, no matter how large? By how much? Quantify your contention.

(19) Does a health risk to animals have to be considered? What if the species being threatened is on the endangered species list?

(20) The radiation level in the main beam of a microwave antenna will probably be above the level considered safe (10 mW/cm^2). Should this level be permitted if the chance of a human climbing the antenna structure is small? Should the Commission require fences around such structures?

(21) Should licensees be required to warn maintenance people of the radiation hazards involved at each radio site or to post warnings if levels are

shown to be above 10 mW/cm²? Some other specific value? What value?

(22) Discuss in detail the impact on Commission licensees in the various radio services we regulate (e.g. broadcasting, mobile, fixed, other) that the various standards mentioned would have (50 uW/cm², 1 mW/cm², and 10 mW/cm²), continuous or short-term occupational or general public.

(23) What techniques can be employed by each of the Commission's services to limit their contribution to cumulative power densities? What are the costs of employing these methods?

(24) What measures can be employed to reduce exposure to high densities, or to reduce any ill effects?

37. Comment in response to this *Notice of Inquiry* will be used to evaluate the issues we have discussed above. It will also assist us to develop comments and information for submission to other Government agencies developing standards in this area. Your comments must clearly show this docket number "General Docket No. 79–144" on the first page. Please label each part of your responses to identify clearly the subject you are addressing. If you have general comments which are not on a specific matter listed above, simply label these comments with the Docket number. Section 1.419 of the Rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include 6 additional copies. The FCC will fully consider all comments, even if only the original is filed. Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554. All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M Street, N.W., Washington, D.C. The FCC is open weekdays between 8:00 and 5:30 p.m.

38. For further information contact: Will McGibbon, Office of Science and Technology, (202) 632–7060.

39. Sections 4(i), 302, 303 (f), (g), (r), and (s), 330, and 403 of the Communications Act of 1934 as amended gives the FCC the authority to conduct this Inquiry. We urge medical and engineering groups, manufacturers, Commission licensees, other Government agencies and all other interested parties to participate in this investigation. You may participate by sending information and opinions that are relevant to the subjects of this Inquiry. Comments must be received by December 15, 1979. You can reply to these comments by following the same procedure for preparing and sending comments. Replies to comments must be received by March 15, 1980.

Accordingly, the FCC orders that this Inquiry is instituted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-19701 Filed 6-22-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-77; RM-3266]

FM Broadcast Station in Incline Village, Nev.; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving the proposed assignment of an FM channel to Incline Village, Nevada. Petitioner, KPOP Radio, states that the additional time is needed to review the docket and to prepare its comments.

DATES: Comments must be filed on or before July 6, 1979, and reply comments on or before July 27, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Incline Village, Nevada); Order extending time for filing comments and reply comments (See 44 FR 22763, April 17, 1979).

Adopted: June 14, 1979.

Released: June 15, 1979.

By the Chief, Broadcast Bureau:

1. On April 5, 1979, the Commission adopted a *Notice of Proposed Rule Making* in the above-entitled proceeding. Publication was made in the **Federal Register** on April 17, 1979, 44 Fed. Reg. 22763. The dates for filing comments and reply comments were June 6, and June 27, 1979.

2. On June 5, 1979, counsel for KPOP Radio, licensee of FM Station KPIP, Roseville, California, filed a motion in which it requests that the time for filing comments and reply comments be extended to July 6, and July 27, 1979, respectively. Counsel states that it has just come to the attention of KPOP Radio that a co-channel separation problem may exist between Roseville and Incline Village. He states that in order to better evaluate this information, additional time is needed so that KPOP Radio's consulting engineer can review the docket in this proceeding. Because the Commission's *Notice* did not mention any co-channel separation problem, it did not become aware of the need to examine this matter until later. This fact is also set forth as the basis for a waiver of Section 1.46(b) which requires motions for extension of time to be filed at least seven days before the filing date.

3. We believe that good cause has been shown in this instance, and that justification for an extension has been shown, so we are granting the request of KPOP Radio.[1]

4. Accordingly, *it is ordered,* that the dates for filing comments and reply comments are extended to and including July 6, and July 27, 1979, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-19682 Filed 6-22-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 76]

[Docket No. 21002 and RM-2695; RM-2723]

Applications for Certificates of Compliance and Federal-State/Local Regulatory Relationships

AGENCY: Federal Communications Commission.

ACTION: Order revising filing dates.

SUMMARY: This document announces a two week extension of time granted to file comments in response to *Further* Notice of Proposed Rulemaking in Docket 21002, FCC 79–228, RM–2695, RM–2723, 44 FR 25245 (released April 27, 1979). The extension of time is granted to permit Commission review of a proposed study related to this proceeding.

DATES: New filing dates are July 2, 1979 for comments and July 23, 1979 for reply comments.

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

FOR FURTHER INFORMATION CONTACT: William Johnson, Cable Television Bureau, (202) 632–6468.

[1] Because of the late filing, we were unable to act on this request before the expiration of the original filing period.

In the matter of amendment of Subparts B and C of Part 76 of the Commission's Rules Pertaining to Applications for Certificates of Compliance and Federal-State/Local Regulatory Relationships; Order (See 44 FR 25245, April 30, 1979).

Adopted: June 15, 1979.

Released: June 18, 1979.

By the Chief, Cable Television Bureau:

1. The National Cable Television Association has requested an extension of 45 days for the filing of comments in this proceeding. The American Television and Communications Corporation has requested a six months extension of time. The American Television request is supported by Manhatten Cable Television, Inc., which also requests a 60 day extension, if the longer extension is denied.[1]

2. The National Cable Television Association request is based on the need to carefully examine the proposal and its implications to the public and the parties concerned, the need to gather additional data, and the difficulties that the industry's annual convention has caused in complying with the existing schedule. The time extension requested by American Television and Communications Corporation is for the purpose of allowing an independent economic consulting firm (National Economic Research Associates, Inc.) to compile a record and conduct a study for the purposes of reponding to the proposal. The specific matters to be addressed in the NERA study include:

The likely changes in fees if limitation is removed,

Quantitiative evaluation of impact in terms of numbers of systems, numbers of subscribers, services provided, and geographic distribution,

The regulatory structure in which fees are imposed,

An investigation of analogous franchise fee/taxing arrangements in other industries,

The cost structure of the cable television industry,

The demand for various types of cable services as related to the impact of fee related prices changes.

3. A two week extension of the comment dates in this proceeding will be granted for the purpose of undertaking a more detailed review of the National Economic Research Associates study proposal. Action on the American Television and Communications Corporation petition is otherwise deferred at this time. The National Cable Television Association petition and the other supporting petitions, to the extent they do not rely on the NERA study, do not appear to justify extensions of the magnitude requested.

Accordingly, *it is ordered*, That the dates for filing comments and reply comments in this proceeding are extended to July 2, 1979 and July 23, 1979 respectively.

This action is taken by the Chief, Cable Television Bureau pursuant to authority delegated by § 0.288 of the Commission's Rules.

Willlard R. Nichols,

Acting Chief, Cable Television Bureau.

[FR Doc. 79-19679 Filed 6-22-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Cablevision Systems Long Island Corp. and Arizona Cable Television *et al.* filed additional comments in support.

[47 CFR Part 83]

[PR Docket No. 79-147; FCC 79-381]

Providing Specifications of Portable Radio Equipment To Be Used in Totally Enclosed Lifeboats

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making.

SUMMARY: Amendment of Part 83 of the rules to provide specifications for portable radio equipment to be used in totally enclosed lifeboats. Change will affect some cargo ships such as liquid natural gas (LNG) tankers and Mobile Offshore Drilling Units (MODUs).

DATES: Comments will be received on or about July 17, 1979 and reply comments will be received on or about July 24, 1979.

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

FOR FURTHER INFORMATION CONTACT: Penelope Wells, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 83 of the rules to provide specifications of portable radio equipment to be used in totally enclosed lifeboats; Notice of Proposed Rule Making.

Adopted: June 12, 1979.

Released: June 18, 1979.

By the Commission.

1. By this Notice, the Commission proposes to amend §§ 83.472 and 83.557 of our rules to provide additional specifications for portable radio equipment to be used in totally enclosed lifeboats.

2. In November 1978, an inspector in the Field Operations Bureau reported a situation which he observed on a liquid natural gas (LNG) tanker and which he believed constituted a safety hazard. For optimum protection in case of a fire onboard, these tankers are equipped with lifeboats which are totally enclosed, fireproof and outfitted with a sprinkler system. Portable radiotelegraph equipment is to be carried on board the lifeboat in an emergency. However, the presently available type approved portable radio equipment was not designed for use in totally enclosed lifeboats. The units are too heavy to be easily carried up the ladder to the lifeboat and too bulky to fit easily through the doorway to the lifeboat. The most troublesome aspect of the portable unit, however, is the antenna system. In order to operate the transmitter, a person must climb out of the lifeboat hatch onto the roof and erect a mast through a hole in the lifeboat canopy. Then a long wire antenna must be secured to the mast and tied down at three or four points on the top of the lifeboat. The erection of the antenna would probably be impossible in a rough sea or in proximity of a burning tanker.

3. An additional problem exists because our regulations (§ 83.472) currently require the portable radio to be mounted in the radio room, the chart room, "or other suitable location." In practice, the radios are kept in the radio room, which is located four decks above the main deck where the lifeboats are mounted. FCC inspectors claim that the language of the rule is too vague to permit them to require that the radio be located closer to the lifeboat.

4. In January 1979, Coast Guard regulations covering mobile offshore drilling units (MODUs) went into effect. Because of the danger of explosion and fire, these units are required to be equipped with totally enclosed lifeboats. The problem of the inadequate portable radio apparatus has thus become more immediate.

5. On January 15, 1979, the Commission received a formal request for additional rules and rule modifications to cover the inadequate communications system in totally enclosed lifeboats from the U.S. Coast Guard. Members of the Private Radio Bureau staff have consulted with the Coast Guard in the formulation of the proposed rule modifications and additions.

6. The principal proposed changes in our specifications occur in § 83.557, Requirements for Survival Craft Portable Radio Equipment. The weight and dimension specifications for apparatus for totally enclosed lifeboats are decreased to make the units more

manageable. Provision is included for an optional ground plate instead of a grounding conductor which consists of a weighted length of wire thrown overboard. Especially significant is the new requirement that totally enclosed lifeboats be provided with a freestanding collapsible rod antenna which can be erected without any person going outside of the lifeboat.

7. In addition, § 83.472(b) is amended to make the FCC rule regarding the radio equipment storage location more compatible with safety considerations which are paramount. Coast Guard MODU regulations include similar language.

8. The proposed amendments to the Commission's rules as set forth in the attached Appendix are issued pursuant to the authority contained in Sections 4(i), 303(e), (f) and (r), and 357 of the Communications Act of 1934, as amended. In addition, Regulation 13 of Chapter IV of the Safety of Life at Sea (SOLAS) Convention confers responsibility on the Commission for effective and efficient portable survival craft radio equipment and communications.

9. Because of the nature of this matter and its direct relationship to the safety of life and property, the Commission has determined that it is in the public interest to allow a shortened time of 20 days for comments and 7 days for reply comments. Therefore, pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before July 17, 1979, and reply comments on or before July 24, 1979. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

10. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

11. Regarding questions on matters covered in this document, contact Penelope Wells, telephone (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 83.472(b) is amended and (c) is added to read as follows:

§ 83.472 Survival craft portable radiotelegraph equipment.

* * * * *

(b) The equipment shall be stowed in the radio room, bridge or a protected location near a lifeboat and shall be readily accessible for transfer to a lifeboat. However, in tankers of 3000 gross tons and over in which lifeboats are fitted amidships and aft, this equipment shall be kept in a suitable place in the vicinity of those lifeboats which are furthest away from the ship's main transmitter.

(c) In addition, equipment for totally enclosed lifeboats shall meet the extra requirements specified in § 83.557.

2. Section 83.557 (a), (e), (f) and (g) are amended to read as follows:

§ 83.557 Requirements for survival craft portable radio equipment.

(a) There shall be provided as a single unit a portable buoyant apparatus consisting of a transmitter, receiver including headphones, power supply, grounding system, antenna system and line for lowering the apparatus. Each totally enclosed lifeboat shall comply with the additional equipment requirements specified in this section.

* * * * *

(4) The apparatus exclusive of the line for lowering shall not weigh more than sixty pounds. Apparatus for use in a totally enclosed lifeboat shall not weigh more than forty pounds.

* * * * *

(8) The maximum overall dimensions of apparatus to be used in totally enclosed lifeboats including accessories shall not exceed 35 by 40 by 50 centimeters.

* * * * *

(e) The antenna system shall consist of a single wire antenna with a collapsible mast or a collapsible rod antenna conforming to the following requirements:

(1) The collapsible mast shall be of the maximum practicable height as approved by the Commission for each particular type of survival craft radio apparatus. The single wire antenna shall consist of a length of at least 12 meters of extra-flexible stranded copper having a cross-sectional area of not less than 10,000 circular mils together with means for effective insulation of the antenna, means for fastening the wire to the antenna supports, and means for making electrical connection to the transmitter.

(2) The collapsible rod antenna shall be of the maximum practicable height as approved by the Commission for each particular type of survival craft radio apparatus.

(3) Each totally enclosed lifeboat shall be provided with a collapsible rod antenna which operates in either a freestanding position or supported only by a grommet in the canopy of the enclosed lifeboat. The antenna shall be capable of being erected without any person going outside of the enclosed lifeboat.

(f) The grounding system shall consist of either a conducting wire or plate to provide an efficient ground for the portable survival craft equipment. The conducting wire shall consist of a length of not less than 6 meters of No. 10 bare stranded copper wire or equivalent copper braid effectively weighted at one end for immersion in the sea. The ground plate shall consist of a bare plate and/or strips of corrosion resistant metal having a total area of at least .6 square meters and shall be located on the hull of the lifeboat below the waterline. Provisions shall be included to permit an electrical connection to be readily made to the ground plate from inside the lifeboat.

(g) The artificial antenna shall provide a reliable load for the transmitter for test purposes, at the frequencies 500 kHz and 8364 kHz, of approximately the same electrical characteristics as the single wire or collapsible rod antennas required by this section.

* * * * *

(2) The artificial antenna shall be housed in a single container and provided with appropriate terminals. If more than two terminals are provided on the artificial antenna, all the terminals shall be properly labelled.

[FR Doc. 79-19681 Filed 6-22-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 172, 173, 174, 177, and 178]

[Docket No. HM-139B; Notice No. 79-10]

Individual Exemptions, Conversion to Regulations of General Applicability

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, D.O.T.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau is considering amending the regulations governing the transportation of hazardous materials to incorporate therein a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations. Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe.

DATES: Comments on or before July 25, 1979.

ADDRESS: SEND COMMENTS TO: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Office of Hazardous Materials Regulation, 2100 Second Street, SW., Washington, D.C. 20590 (202-755-4962).

SUPPLEMENTARY INFORMATION: This is the thirteenth notice published under Docket HM-139 since the first notice appeared in the **Federal Register** on September 13, 1976. It is apparent that some method is necessary to distinguish between the many different notices and amendments that will continue to appear under this docket number in the future. Consequently, in order to eliminate confusion and provide for easier reference, all notices and amendments published under HM-139 will be identified with a letter suffix. For example, the last notice (43 FR 58834) and the amendment based on that notice were identified as HM-139A. This notice is identified as HM-139B. Primary drafters of these proposals are Darrell L. Raines, and John C. Allen, Office of Hazardous Materials Regulation, and Evan Braude, Office of the Chief Counsel, Research and Special Programs Administration.

Each of the proposed amendments described in the following table is founded upon either: (1) actual shipping experience gained under an exemption, or (2) the data and analysis supplied in the application. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations.

Adoption of an amendment derived from an existing exemption would obviate the need for that exemption. Therefore, it would be terminated. Upon such termination, the holder of the exemption and parties thereto would be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in which event the exemption request would be denied and the applicant so notified. In the event the Bureau decides not to adopt any of these proposals each pertinent application would be evaluated and acted upon in accordance with the application provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on proposed amendments may wish to address both the proposed amendment and the exemption application. Consideration of comments of the merits of including within an amendment modes of transportation other than those for which the exemption application requested is anticipated.

Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption of Application" portion of the following table as follows: 1-Motor vehicle, 2-Rail freight, 3-Cargo vessel, 4-Cargo-only aircraft, 5-Passenger-carrying aircraft. The status of the exemption action is indicated in the column titled Identification Number where prefix "E" means an exemption has been issued. The suffix "No" means no applications for exemptions are pending, but the Bureau is taking action by this proposal; the suffix "X" means a renewal application is pending' the suffix "P" means one or more party status applications are pending; and the suffix "N" means a new application for exemption is pending.

These proposals would not significantly affect the costs of regulatory enforcement, nor would additional costs be imposed on the private sector, consumers, or Federal, State or local governments, since these proposals would merely authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record of shipments under the identified exemptions demonstrates that significant environmental impacts would not result from any of the proposals.

Proposed Amendments of Hazardous Materials Regulations To Terminate Exemptions

Identification No	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 3822-No.	Dow Chemical Co	§ 173.252(a)(4)	Authorizes shipments of bromine as prescribed in § 173.252(a)(4) except that the total quantity loaded must not be less than 92 percent of the quantity the tank is authorized to carry. (Mode 1.).	To amend the last sentence in § 173.252(a)(4) to read: The total quantity loaded must not be less than 92 percent of the quantity the tank is authorized to carry.
E 6632-X	Roper Plastics, Inc	§ 178.16-13(3)	Authorizes shipments of certain dry oxidizing materials in single-trip, molded polyethylene containers of 3½ gallon, 6 gallon and 7 gallon capacity. (Modes 1, 2, and 3.). *Note.*—DOT Specification 35 (§ 178.16) requires two drums, stacked two high, to withstand a static compression test of 600 pounds applied evenly for 48 hours regardless of the size of the drums. Test results have proven that a 3½ gallon specification 35 type drum	To revised the second sentence of § 178.16-13(3) to read: The two drums of identical capacity, stacked two high, must withstand a static compression test applied evenly for 48 hours to the top rim of the top drum without buckling of the side walls or leakage. The compression weight load to be applied must be the greater of 300 pounds or the volume in gallons of one drum times 85 pounds.

Proposed Amendments of Hazardous Materials Regulations To Terminate Exemptions—Continued

Identification No	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
			should not be required to withstand the same static load as the 5 to 7 gallon drum. Therefore, it is being proposed here to revise the second sentence of § 178.16–13(3) to authorize a graduate scale based upon a weight per gallon.	
E 6671–No., E7434–No., E7551–No.	Dow Chemical Co., Hercules Inc., Dow Corning Corp., FMC Corp., Natico, Inc.	§ 173.3(c), § 174.48(b), § 177.854(c)(2).	*Correction.* These exemptions authorized the use of "Recovery Drums" for damaged or defective packages containing a wide range of hazardous materials. An amendment incorporating the provisions of these exemptions became effective on April 27, 1978 (43 FR 17942). Since that time there have been a number of questions concerning the shipment and use of recovery drums. It is being proposed here to eliminate the apparent confusion by amending the requirements for recovery drums to specifically address marking, labeling, shipping paper requirements, and questions over reconditioning and overpacks. (Modes 1, 2, and 3.).	To revise § 173.3(c) to read: (c) Packages that are damaged or leaking and which contain corrosive liquids, corrosive solids, flammable liquids, flammable solids, oxidizers, poison B liquids, posion B solids, irritating agents or any material classed as an ORM may be placed inside a metal recovery drum and shipped to a facility for disposal or repackaging under the following conditions: (1) The drum utilized may be either a DOT specification or a non-DOT specification drum as long as the drum has equal or greater structural integrity than a drum that is authorized for the respective material in this subchapter. Maximum capacity shall not exceed 110 gallons. (2) Drums must be provided with adequate closure and, when necessary, provided with sufficient cushioning and absorption material to prevent excessive movement of the damaged package and to absorb leaking liquid. (3) Drums must be marked with the proper shipping name of the material inside the defective packaging and the name and address of the consignee. In addition, the drum must be marked "RECOVERY DRUM." (4) The recovery drum must be labeled as prescribed for the respective material. (5) The shipper shall prepare shipping papers in accordance with Subpart C of Part 172 of this subchapter. (6) The overpack requirements of § 173.25 and the reconditioning requirements of § 173.28(m) of this subchapter do not apply to drums used in accordance with this paragraph. To revise § 174.48(b) to read: (b) During transit, damaged or leaking packages with contain corrosive liquids, corrosive solids, flammable liquids, flammable solids, oxidizers, poison B liquids, poison B solids, irritating agents or any material classed as an ORM may be forwarded to destination or returned to the shipper in a recovery drum meeting all requirements of § 173.3(c) of this subchapter except that shipping papers are not required. To revise § 177.854(c)(2) to read: (2) During transit, damaged or leaking packages which contain corrosive liquids, corrosive solids, flammable liquids, flammable solids, oxidizers, poison B liquids, poison B solids, irritating agents or any material classed as an ORM may be forwarded to destination or returned to the shipper in a recovery drum meeting all requirements of § 173.3(c) of this subchapter.
E 7019–No., E 7992–No., E 7994–No.	Hooker Chemical Co., Stauffer Chemical, Monsanto Company.	§ 178.252–1(b)	Authorizes shipments of phosphorus pentasulfide in DOT Specification 56 metal portable tanks having a maximum gross weight of 7,700 pounds. (Mode 1 and 2.).	To revise paragraph (b) to read: (b) Each tank may not exceed a rated gross weight of 7,700 pounds.
E 7924–No., E 7983–No	National Semiconductor Corp., Exxon Enterprises, Union Carbide Corp.	§ 173.206	Authorizes shipments of small lithium cells (batteries) containing not more than 0.5 grams of lithium metal, or lithium-aluminum alloy for use in wrist watches. Cells must be separated from each other so as to prevent short circuits. (Modes 1, 2, 3, 4 and 5.).	To add new entries (in italics) to Column (2) of the Hazardous Materials Table § 172.101 and add paragraph (f) of § 173.206 to read: (f) Lithium batteries (or cell) which are hermetically sealed, contain not more than 0.5 grams each of lithium or lithium alloy, separated from each other so as to prevent short circuits, and overpacked in a strong outside container are not subject to the requirements of this subchapter. This exception also applies to batteries shipped as a part of devices such as calculators, photographic equipment and watches.

Proposed Amendments of Hazardous Materials Regulations To Terminate Exemptions—Continued

Identification No.	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 7990–N	Lea-Ronal, Inc	§ 173.346(a)	Authorizes shipments of various Class B poisons in DOT Specification 37M/2SL composite packaging. (Modes 1, 2, and 4.).	To revise paragraph (a)(20) to read: (20) Specification 6D or 37M (§§ 178.102, 178.134 of this subchapter). Cylindrical steel overpacks with inside specifications 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene containers. Authorized for materials that will not react with polyethylene and result in container failure.
E 7950–No	Martin Marietta Corp	§ 173.154(a)(9)	Authorizes shipments of dinitrophenol wet with 10 percent by weight of water in DOT Specification 21C400 fiber drums having a maximum net weight of 350 pounds. (Mode 1.).	To revise paragraph (a)(9) to read: (9) Specification 21C (§ 178.224 of this subchapter). Fiber drums. Maximum net weight may not exceed 225 pounds except that a 21C400 fiber drum may have a net weight not exceeding 350 pounds.
E 7953–No	Pennwalt Corp	§ 173.157(a)(5), § 173.157(b)(3)	Authorizes shipments of wet benzoyl peroxide as authorized in § 173.157(a)(5) and § 173.157(b)(3) except that the net weight (dry weight) in each inside container may not exceed 25 pounds. (Modes 1 and 3.).	To amend paragraphs (a)(5) and (b)(3) by increasing the net weight (dry weight) in each inside container from 10 pounds to 25 pounds.
E 7961–No	Union Carbide Corps	§173.119(m)(14)	Authorizes shipments of propylene oxide in DOT Specification 114A340W tank cars. (Mode 2.).	To revise paragraph (m)(14) to read: (14) Specification 105A100W, 112A200W, or 114A340W (§ 179.100 and 179.101 of this subchapter). Tank cars. Authorized only for propylene oxide except 112A200W also authorized for acrylonitrile.
E 7962–No	DuBoise Chemicals	§ 173.256(a)(7)	Authorizes shipments of a compound, cleaning, liquid containing not more than 14 percent hydrofluoric acid, by weight in DOT Specification 37M cylindrical steel overpack with an inside specification 2U polyethylene container. (Modes 1 and 2.).	To revise paragraph (a)(7) to read: (7) Specification 37M (§ 178.134 of this subchapter). Cylindrical steel overpack with inside specification 2U (§ 178.24 of this subchapter) polyethylene container. For compounds containing not more than 7 percent hydrofluoric acid by weight, the steel overpack must be a minimum of 22-guage. For compounds containing more than 7 percent hydrofluoric acid by weight but not over 14 percent hydrofluoric acid by weight, the steel overpack must be a minimum of 20-guage body and 18-guage heads. When a full removable head is used, the bolted type ring closure must be 16-guage.
E 7984–No	Air Products and Chemicals, Inc	§ 173.154(a)	Authorizes shipment of an oxidizer consisting of a mixture of 24 to 26 percent ammonia, 68 to 70 percent ammonium nitrate and 5 to 7 percent water. (Mode 2.).	To add paragraph (a)(21) to read: (21) Specification 105A200 ALW (§§ 179.100, 179.101 of this subchapter). Tank cars. Authorized only for a mixture of 24 to 26 percent ammonia, 68 to 70 percent ammonium nitrate and 5 to 7 percent water. Transportation by water is not authorized.
E 8052–No	Sport Spec International, LTD	§ 173.178(a)	Authorizes shipments of calcium carbide in water-tight metal cans containing not over 5 pounds of product and overpacked in DOT Specification 12B fiberboard boxes. (Modes 1 and 2.).	To add paragraph (a)(5) to read: (5) Specification 12B (§ 178.205 of this subchapter). Fiberboard boxes with water-tight metal inside cans of not over 2-quart capacity each. Cans must have welded or soldered side seams, rolled and folded top and bottom seams with a friction or threaded type closure.
E 8064–No	GTE Sylvania	§ 173.247(a)(9)	Authorizes shipments of thionyl chloride in DOT Specification 5C metal drums of type 304 stainless steel and not over 30-gallon capacity each. (Modes 1, 2, and 3.).	To revise paragraph (a)(9) to read: (9) Specification 5C (§ 178.83 of this subchapter). Barrels or drums of Type 304 stainless steel not over 30-gallon capacity each. Authorized for chromyl chloride and thionyl chloride only.
E 8070–No	Olin Corp	§ 173.93(b)	Authorizes shipments of propellant explosives in water in DOT Specification 17H steel drums not over 30-gallon each. (Mode 1.).	To add paragraph (b)(2) to read: (2) Specification 17H (§ 178.118 of this subchapter). Steel drums (single-trip) not over 30-gallon capacity each.
E 8071–No	Ethyl Corp	§ 173.303(a)(4)	*Revision.* This exemption authorized the use of DOT Specification 51 portable tanks having a maximum allowable working pressure of 175 p.s.i.g. for the shipment of sodium potassium alloy. An amendment incorporating the provisions of this exemption became effective on April 12, 1979 (44 FR 21793). Published rule change requires a "minimum" design pressure of 175 p.s.i.g. It is being proposed here to change the 175 p.s.i.g. to read 150 p.s.i.g. (Modes 1, 2, 3.).	To amend the second sentence in § 173.202(a)(4) to read: Tanks shall have a minimum design pressure of 150 pounds per square inch.

Proposed Amendments of Hazardous Materials Regulations To Terminate Exemptions—Continued

Identification No.	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 8098–No	Witco Chemical Corp	§ 173.157(b)	Authorizes shipments of benzoyl peroxide in DOT Specification 21C fiber drums as specified in § 173.157(b)(2) except the net weight (dry weight) in each outside drum may not exceed 55 pounds. (Modes 1, 2, and 3.).	To revise paragraph (b)(2) to read: (2) Specification 21C (§ 178.224 of this subchapter). Fiber drum with securely closed inside plastic containers made of polyethylene film at least 0.004 inch thick. Net weight (dry weight) in each outside drum may not exceed 55 pounds.
8190–N	Ethyl Corp	§173.245(a)(32)	Request to ship dimethyl chlorothiophosphate (also known as dimethyl phosphorochloridothionate) in DOT specification 105A300W tank cars. (Mode 2.).	To add two new entries to the Hazardous Materials Table in § 172.101 to read: To revise paragraph (a)(32) to read: (32) Specification 103AW, 103A-ALW, 103ANW, 103BW, 103CW, 103EW, 105A100W, 105A200ALW, 111A100F2, 111A60ALW2, 111A60W2, 111A60W5 or AAR-201A80W (§§ 179.100, 179.101, 179.200, and 179.201 of this subchapter). Tank cars. Specification 105A200 ALW tank cars authorized only for acetic anhydride. Specification 105A100W tank cars authorized only for aluminum hydroxide and dimethyl chlorothiophosphate. AAR 201A80W tank cars authorized only for ammonium hydroxide.
8224–N	National Tank Truck Carriers, Inc.	§ 173.247(a)(12), § 173.248(a)(6), § 173.249(a)(6), § 173.250a(2), § 173.252(a)(4), § 173.253(a)(6), § 173.254(a)(5) § 173.255(a)(5), § 173.257(a)(4), § 173.262(a)(11), § 173.262(b)(4), § 173.263(a)(10), § 173.264(a)(14), § 173.264(b)(3), § 173.265(b)(4), § 173.266(f)(2), § 173.267(a)(7), § 173.268(b)(3), § 173.271(a)(8), § 173.272(i)(21), § 173.272(i)(25), § 173.272(i)(28), § 173.273(a)(5), § 173.276(a)(6), § 173.280(a)(8), § 173.289(a)(4), § 173.292(a)(2), § 173.294(a)(3), § 173.295(a)(9), § 173.295(a)(10), § 173.296(a)(2), § 173.297(a)(1). § 173.247a(3),	Request to use DOT Specification MC 310 and MC 311 cargo tanks equipped with bottom outlets (§ 173.343–5) for the shipment of various corrosive liquids.	To revise each of the paragraphs listed in the third column by adding the words "Bottom outlets authorized if they meet § 178.343–5 of this subchapter."

(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A, Part 106.)

The Materials Transprtation Bureau has determined that this notice will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedure (43 FR 9582). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C. on June 18, 1979.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

BILLING CODE 4910–60–M

(1)	(2)	(3)	(4)	(5)		Maximum net quantity in one package		(7)		
				Packaging				Water shipments		
*/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Add)									
	Battery, lithium. See lithium battery.									
	Lithium battery. See § 173.206(f).									

(1)	(2)	(3)	(4)	(5)		Maximum net quantity in one package		(7)		
				Packaging				Water shipments		
*/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirement
	(Add)									
	Dimethyl chlorothiophosphate or Dimethyl phosphorochloridothioate.	Corrosive material	Corrosive	§ 173.244	§ 173.245	1 quart	1 quart	1,2	1,2	
	Dimethyl phosphorochloridothioate See Dimethyl chlorothiophosphate.									

[FR Doc. 79-19702 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-60-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of proposed rulemaking and preliminary fishery management plan amendment.

SUMMARY: This proposed amendment to the foreign fishing regulations and to preliminary fishery management plans (PMP's) for Northwest Atlantic fisheries would remove the prohibition on foreign trawling between the 100 and 200 fathom bottom contours in fishing areas 1–4 in the Northwest Atlantic Ocean. This proposal will reduce overcrowded and dangerous conditions on the available fishing grounds.

DATE: Comments are invited until July 23, 1979.

ADDRESS: Send comments to Chief, Permits and Regulations Divison, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: W. Perry Allen, Permits and Regulations Division, National marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634–7436.

SUPPLEMENTARY INFORMATION: Section 611.50(d)(1) of the foreign fishing regulations prohibits foreign trawling in the Northwest Atlantic Ocean fishery: (1) between the 10 and 200 fathom contours in fishing areas 1–4; and (2) in any fixed-gear area broadcast by the Coast Guard. The prohibition against foreign trawling between the 100 and 200 fathom contours was intended to protect domestic fixed gear that had not been reported and thus was not included in a fixed-gear area broadcast by the Coast Guard. However, the 100 to 200 fathom prohibition precluded foreign trawling in large portions of fishing areas 1–4 where there was no fixed gear. This restriction on foreign trawling contributed to: (1) overcrowded and dangerous conditions on the available fishing grounds; and (2) the inability of foreign nations to harvest their allocations of fish.

A recent amendment to the foreign fishing regulations expands broadcast fixed-gear areas by including a buffer zone around reported fixed gear (44 FR 31651). Expansion of these areas provides an adequate means for domestic fixed-gear fishermen to protect their gear from foreign trawling without the necessity of the 100 to 200 fathom prohibition. The regulatory amendment proposed in this Notice combines the expansion of the fixed gear areas and the proposed removal of the 100 to 200 fathom prohibition.

The Assistant Administrator has made a preliminary determination that these regulations are not signficant under Executive Order 12044. Environmental impact statements for the PMP's are on file with the Environmental Protection Agency.

Accordingly, amendments to the Northwest Atlantic PMP's are proposed, as follows:

Change section V(d)(7) of the PMP's for the Mackerel, Squid, Hake, and Foreign Trawl Fisheries of the Northwest Atlantic (at 42 FR 9790, 9630, 10188, and 9983) to read:

Fixed Gear Avoidance

The NOAA Assistant Administrator for Fisheries shall promulgate regulations governing foreign fishing operations to provide protection for fixed gear in the authorized fishing areas.

Signed at Washington, D.C. this 20th day of June 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

50 CFR 611.50(d) is proposed to be amended by deleting paragraph (d)(1) and replacing it with the following new paragraph:

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(d) * * *

(1) No foreign fishing vessel may trawl in any fixed-gear area broadcast by the Coast Guard (see § 611.11 and paragraph (d)(2) of this section). Broadcasts of fixed-gear areas will include a buffer zone around the actual reported locations of the fixed gear.

* * * * *

[FR Doc. 79–19753 Filed 6–22–79; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 44, No. 123
Monday, June 25, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

North Tillatoba-Hunter Creeks Watershed, Mississippi; Intent To Not Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental 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 an environmental impact statement is not being prepared for the North Tillatoba-Hunter Creeks Watershed, Tallahatchie and Yalobusha Counties, Mississippi.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for stream stabilization, flood prevention, and reducing erosion and sediment delivery downstream. The planned works of improvement include land treatment, 13 stream and valley grade control structures, 6 stream in-line grade stabilization structures, 2 miles of streambank stabilization measures, and a conservation easement for a 50-foot strip of land on each side of the top banks of the major streams for 15.4 miles (187 acres).

The notice of intent to not prepare an environmental impact statment has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 210 South Lamar Street, Room 500, Milner Building, Jackson, Mississippi 39205. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until at least September 24, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act, Public Law 78-534, 58 Stat. 905.)

Dated: June 12, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-19578 Filed 6-22-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Proposed Grant of Boston/Philadelphia-Orlando Nonstop Authority to Allegheny and Trans World Airlines and Washington-Orlando Nonstop Authority to Allegheny

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-6-114.

SUMMARY: The Board is proposing to grant Boston/Philadelphia-Orlando nonstop authority to Allegheny and Trans World Airlines, Washington-Orlando nonstop authority to Allegheny, and also any of the above authority to any fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than July 30, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than July 5, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35893. Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: M. Mikolajczyk, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, (202) 673-5920.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Allegheny Airlines, Trans World Airlines, Northwest Airlines and Eastern Air Lines.

The complete text of Order 79-6-114 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-6-114 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 19, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-19678 Filed 6-22-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 35894]

Minneapolis/St. Paul Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-6-113.

SUMMARY: The Board is instituting the *Minneapolis/St. Paul Show-Cause Proceeding*, in Docket 35894 and proposing to amend the certificates of public convenience and necessity of Trans World Airlines, Western Air Lines, Allegheny Airlines, Texas International Airlines, North Central Airlines and any other fit, willing and able applicants whose fitness, willingness, and ability can be demonstrated by officially noticeable material so as to authorize nonstop operations between Minneapolis/St. Paul, Minn. and St. Louis, Mo. The complete text of the order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, a statement of objections, together with a summary of the testimony, statistical

data and other material expected to be relied upon to support the stated objections, no later than July 20, 1979.

Additional data: New applications with attached supporting data should be filed no later than July 20, 1979.

ADDRESS: Objections and additional data should be filed in Docket 35894, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Steve Baron, B-72, Bureau of Domestic Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5413.

SUPPLEMENTARY INFORMATION: Objections and additional data should be served upon Trans World Airlines, Western Air Lines, Allegheny Airlines, Texas International Airlines, North Central Airlines and Northwest Airlines.

The complete text of Order 79-6-113 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-6-113 to the Distribution Section (Zip Code: 20428).

By the Civil Aeronautics Board: June 19, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-19677 Filed 6-22-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

Reconstruction of Three MA Design C8-S-81b Lash Vessels to MA Design C8-S-81h Combination Barge Container Vessels; Computation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 501(a) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the reconstruction of three MA Design C8-S-81b full barge carriers to MA Design C8-S-81h combination barge container carrying ships.

Any person, firm or corporation having any interest (within the meaning of section 501(a)) in such computations may file written statements by the close of business on June 27, 1979, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Dated: June 20, 1979.

By Order of the Maritime Subsidy Board, Maritime Administration.

James S. Dawson, Jr.,

Secretary.

[FR Doc. 79-19688 Filed 6-22-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atomospheric Administration

National Marine Fisheries Service; Issuance of Permit To Import Marine Mammel

On May 18, 1979, Notice was published in the **Federal Register** (44 FR 29135), that an application had been filed with the National Marine Fisheries Service by Sea World, Inc., 1720 South Shores Road, Mission Bay, San Diego, California 92109, for a public display permit to import one (1) killer whale (*Orcinus orca*).

Notice is hereby given that on June 18, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a public display permit to Sea World, Inc., subject to certain conditions set forth therein.

The Permit is available for review by interested persons 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, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: June 18, 1979.

Winfred H Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-19666 Filed 6-22-79; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Issuance of Permit for Marine Mammals

On May 4, 1979, notice was published in the **Federal Register** (44 FR 26147), that an application had been filed with the National Marine Fisheries Service by the Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149, for a scientific research permit to take 10,400 Atlantic bottlenose dolphins (*Tursiops truncatus*).

Notice is hereby given that, on June 19, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to the Southeast Fisheries Center, National Marine Fisheries Service, subject to certain conditions.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: June 19, 1979.

Winfred H. Meibohm,

Associate Director National Marine Fisheries Service.

[FR Doc. 79-19669 Filed 6-22-79; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Issuance of Permit for Marine Mammals

On April 22, 1979, notice was published in the **Federal Register** (44 FR 21840), that an application had been filed with the National Marine Fisheries Service by Dr. Lavern J. Weber, Director, Professor of Pharmacology and Fisheries, Oregon State University, Marine Science Center, Newport, Oregon 97365, for a scientific research permit to take eight California sea lions (*Zalophus californianus*), eight Northern sea lions (*Eumetopias jubatus*), and eight harbor seals (*Phoca vitulina*).

Notice is hereby given that, on June 7, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to Dr. Lavern J. Weber, subject to certain conditions.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: June 7, 1979.

Jack W. Gehringer,

Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 79-19667 Filed 6-22-79; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Issuance of Permit

On May 14, 1979, Notice was published in the Federal Register (44 FR 28035), that an application had been filed with the National Marine Fisheries Service by Dr. Kenneth S. Norris, Environmental Field Program, University of California, Santa Cruz, California 95064, to take sixty-five (65) spinner dolphins (*Stenella longirostris*) for the purpose of scientific research.

Notice is hereby given that on June 19, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to Dr. Kenneth S. Norris, subject to certain conditions set forth therein.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 19, 1979.

Winfred H. Meibohm,

Associate Director, National Marine Fisheries Service.

[FR Doc. 79-19670 Filed 6-22-79; 8:45 am]

BILING CODE 3510-22-M

National Marine Fisheries Service; Issuance of Permit

On April 12, 1979, Notice was published in the Federal Register (44 FR 21840), that an application had been filed with the National Marine Fisheries Service by Northwest and Alaska Fisheries Center, National Marine Fisheries Service, for a permit to take by instrumenting with radio tags and depth recorders eight (8) Hawaiian monk seals (*Monachus schauinslandi*) for the purpose of scientific research.

Notice is hereby given that on June 13, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a permit to the Northwest and Alaska Fisheries Center, for the above taking subject to certain conditions set forth therein.

Issuance of this permit as required by the Endangered Species Act of 1973, is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367, November 27, 1974).

The permit is 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, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington, 98109.

Dated: June 13, 1979.

Jack W. Gehringer,

Deputy Director, National Marine Fisheries Service.

[FR Doc. 79-19671 Filed 6-22-79; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Pink Shrimp Subpanel; Cancellation of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Notice is hereby given that the scheduled meeting on June 25–26, 1979, of the Pacific Fishery Management Council's Pink Shrimp Subpanel as published in the Federal Register, Volume 44, Number 112, page 33141, Friday, June 8, 1979, has been cancelled.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: June 20, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-19692 Filed 6-22-79; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

[Dept. Organization Order 44–1, Amdt. 3; D.O.O. Reference 10–3, 40–1]

Bureau of Domestic Business Development; Statement of Organization, Function, and Delegation of Authority

ITA Organization and Function Order 44–1 of December 4, 1977 (43 FR 10955, 43 FR 50954 and 44 FR 23552) is hereby further amended as follows to reflect the reorganization of the Office of Textiles.

Section 7 is revised to read:

Section 7. Office of Textiles.

.01 The *Office of the Director* includes the *Director* who shall direct the Office. The Director and his designees shall participate in the negotiation of international textile agreements; oversee studies and analyses of domestic and foreign fiber, textile, and apparel industries; coordinate interagency relations, legislative comment and liaison with industry, trade groups, and foreign government officials; direct efforts to improve U.S. textile industry productivity and export expansion activities; ensure that the Office provides appropriate administrative support to the Committee for the Implementation of Textile Agreements, the Management-Labor Textile Advisory Committee, the Importers' Textile Advisory Committee, and the Exporters' Textile Advisory Committee; and act as alternate chairman for the Committee for the Implementation of Textile Agreements. The immediate office of the Director includes *Domestic Programs Staff* which shall analyze domestic and foreign industry infrastructure, distribution systems, structural assistance programs, and new technologies to develop initiatives which will improve domestic textile and apparel industries' productivity, marketing, and management information. The Director shall direct the following Divisions:

.02 The *International Agreements and Monitoring Division* shall be the Executive Secretariat of, chair the working group of and coordinate public input to the Committee for the Implementation of Textile Agreements; identify and recommend solutions to

problems arising under the bilateral agreements; implement CITA decisions; monitor restrained imports and prepare Performance Reports; identify uncontrolled sources of potential market disruption; participate in, prepare back-up materials for and recommend positions and goals for international negotiations and consultations; review and work to improve U.S. and foreign textile agreement data.

.03 The *Industry Assessment Division* shall evaluate the current state of the U.S. and world fiber, textile, and apparel industries; determine the impact of trade in raw fiber, imports of textiles and apparel, federal import policies, regulations, and legislation, and domestic raw material and energy supplies on the industries and recommend appropriate action; and prepare regular and special data and analyses on the industries for panels and speeches, reports to international organizations, and publications.

.04 The *Market Expansion Division* shall with respect to the textile and apparel industries: identify and analyze economic trends, political developments as they may effect U.S. exports, and current and proposed foreign trade barriers which impact such industries in coordination with the Bureau of International Economic Policy and Research; develop and coordinate domestic trade and export expansion programs with other elements of the Industry and Trade Administration; advise other Government agencies of the impact that their overseas development programs have on such industries; administer the Exporters' Textile Advisory Committee; provide staff support and technical assistance in negotiation of international tariff agreements; and publish studies on opportunities and barriers to the U.S. textile export market.

Frank A. Weil,

Assistant Secretary for Industry and Trade.

Paul T. O'Day,

Acting Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 79-19636 Filed 6-22-79; 8:45 am]

BILING CODE 3510-25-M

[Dept. Organization Order 42-1, Amdt. 5; D.O.O. Reference 40-1, 10-3]

Deputy Assistant Secretary for Administrative and Legislative Policy; Statement of Organization, Function, and Delegation of Authority

ITA Organization and Function Order 42-1 of December 4, 1977, as amended, (43 FR 9184; 43 FR 36670; 43 FR 51826; 44 FR 23271; and 44 FR 23553) is hereby further amended as follows to reflect the realignment of the Office of Administrative Support.

1. *Section 10. Office of Administrative Support.* is revised to read:

Section 10. Office of Administrative Support.

.01 The *Office of Administrative Support* shall be headed by a *Director* who shall plan and direct all administrative support services for the Industry and Trade Administration. The Director shall serve as the Department's member of the NSC/SCC Working Group on Terrorism and shall be provided staff support by the Bureau of Domestic Business Development. The Director shall maintain liaison with and shall be responsible for monitoring the quantity and quality of services provided through the working capital fund by the Department's Office of Administrative Services, Office of Publications, Office of Investigations and Security and the Office of Procurement and ADP Management.

.02 The *Travel Staff* within the Office of the Director shall provide comprehensive travel services which shall include itinerary plans, modes of travel, reservations for transportation, security clearances, tickets, travel advances, passports and visas, and hotel accommodations for international travel. The Travel Staff shall pre-audit all travel vouchers.

.03 The *Property Management Division* shall receive and process all procurement requests for furniture, furnishings, office equipment, office supplies, subscriptions, publications and printing; arrange for the repair and renovation of office equipment and furniture; voucher all transactions to insure that the terms of purchases and contracts are fully met; maintain current inventories of office equipment and other property as appropriate; monitor the use of office equipment and furniture, insure its use is maximized and review requests for procurement of new items to insure that unused items are not otherwise available. The Division shall also maintain a current inventory of ITA assigned office and special use space; monitor GSA SLUC billings to insure that charges are accurate and inaccuracies are corrected; perform ongoing review and analysis of office space utilization to insure conformity to Department and GSA guidelines; develop short and long range plans for space assignments in anticipation of increases and decreases in the requirements of ITA organizational elements; prepare work specifications for renovations, alteration and telephone and electrical services within ITA; monitor all contract work to insure that standards of quality are met, work is performed within agreed timeframes, and costs do not exceed estimates; provide within the capability of the Division, office design services for ITA organizations and monitor, as contracting office, all office design and layout work performed by private design firms; and conduct reviews of office space and recommend approaches to improving the physical surroundings and working environment of ITA employees.

.04 The *Support Services Division* shall provide mail management, secretariat, time and attendance reporting, security and safety services for ITA personnel and organizational elements. The Division shall receive, sort and distribute correspondence; receive, post, control and distribute classified and registered documents; provide for the distribution of bulk materials and special messenger service; monitor ITA mailing practices to insure that appropriate laws, rules, regulations and guidelines are adhered to; receive, review and assign for appropriate action all Secretarial, White House and Congressional correspondence directed to ITA; follow-up to insure timely response; provide assistance on correspondence procedures; and review all replies for proper format and compliance with established procedures. The Division shall also provide physical and document security orientation for employees and security briefings; maintain NATO sub-registry for Commerce; review and evaluate the ITA security program; and control credentials, building passes and keys; perform the safety function including reviewing and evaluating the physical working condition with ITA and taking necessary actions to correct conditions that are or may be injurious to the health and safety of employees; and advise and assist ITA personnel on matters pertaining to payroll and provide paymaster services.

2. The organization chart attached to this amendment supersedes the organization chart dated September 1978.[1]

Frank A. Weil,

Assistant Secretary for Industry and Trade.

[FR Doc. 79-19637 Filed 6-22-79; 8:45 am]

BILLING CODE 3510-25-M

[1] Filed as part of the original document.

U.S. TRAVEL SERVICE

Travel Advisory Board; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on August 14, 1979, at 9:30 a.m., in Room 4830 of the Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purpose of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended.

A detailed agenda for the meeting will be published in the **Federal Register** in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Rose Marie Beaty, Travel Advisory Board Liaison Officer, the United States Travel Service, Room 1858, U.S. Department of Commerce, Washington, D.C. 20230 (telephone: 202/377–4746) will respond to public requests for information about the meeting.

Jeanne Westphal,

Acting Assistant Secretary for Tourism, U.S. Department of Commerce.

[FR Doc. 79–19675 Filed 6–22–79; 8:45 am]

BILLING CODE 3510–11–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange; Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendments

The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, section 12, 92 Stat. 871 (1978), has determined that the following amendments to rules 1504–G and 1505–C, submitted by the Chicago Mercantile Exchange, are of major economic significance and is therefore publishing these rules, as amended, for public comment. These amendments were submitted to the Commission on April 5, 1979.

The rules, as amended, are printed below showing deletions in brackets and additions italicized:

1504. PAR DELIVERY AND SUBSTITUTION.—

G. Delivery Points and Allowances.

A par delivery of live beef cattle shall be made from approved livestock yards in Peoria, Illinois; Joliet, Illinois; Omaha, Nebraska; Sioux City, Iowa; Guymon, Oklahoma; *and Greeley, Colorado.*

1505. PROCEDURES AND STANDARDS FOR GRADING, ESTIMATING YIELD AND WEIGHING.—

C. Weighing.

Weighing shall be done within one hour following the completion of grading. The cattle shall not receive feed or water during the interval between grading and weighing. *However, cattle delivered at Greeley, Colorado must be in the yards no later than 12:00 a.m. on the day of delivery, and must stand overnight without feed and water prior to weighing.*

Weighing shall be done by the approved livestock yards company on officially approved scales and recorded on the official scale ticket or official weight sheets which shall show total net weight and number of head of cattle, lot number and/or pen number, and the date weighed.

Any person interested in submitting written data, views, or arguments on these rules should send his comments by July 25, 1979 to Ms. Jane Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581.

Issued in Washington, D.C. on June 18, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79–19650 Filed 6–22–79; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Defense Nuclear Agency (DNA)

Scientific Advisory Group on Effects (SAGE). Closed Meeting

Name of committee: Scientific Advisory Group on Effects (SAGE).

Dates: 14–17 August 1979.

Place: Los Alamos Scientific Laboratory, Los Alamos, New Mexico.

Agenda: 14 August (0845–1700) and 15 August (0830–1700): Presentations, Discussions and Executive Sessions and Urban/Industrial Targeting Effects: 16 August (0830–1700) and 17 August (0830–1200): Executive Sessions on New DNA Roles and Missions.

The presentations and discussions in the above cited agenda will focus on current and planned RDT&E programs sponsored by the Defense Nuclear Agency (NDA). Executive sessions will be held for the primary purpose of advising the Director, DNA, as to the adequacy of ongoing and planned programs. All planned presentations, discussions and executive sessions will include classified defense information; therefore, under the provisions of Sections 552b(c) (1) and (3), Title 5, U.S.C., this meeting is closed to the public.

Any additional information concerning the meeting may be obtained by contacting LTC Roger C. Andrews, Scientific Secretary, SAGE, ATTN: DDST, Headquarters, Defense Nuclear Agency, Washington, D.C. 20305.

June 20, 1979.

H.E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79–19618 Filed 6–22–79; 8:45 am]

BILLING CODE 3810–70

Department of the Army

Fort Sill, Okla.; Notice of Filing of Environmental Impact Statement

The Army on June 20, 1979 provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at the Fort Sill, OK military installation. The alternatives of maintaining, discontinuing, or reducing operations are also analyzed. Copies of the statement have been forwarded to concerned Federal, state, and local agencies. Interested organizations or individuals may obtain copies from Commander, US Army Field Artillery Center and Fort Sill, ATTN: ATZR—FEEO, Fort Sill, OK 73505.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room

1E676, Pentagon, Washington, DC 20310, telephone (202) 694–3434.

Bruce A. Hildebrand,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 79-19620 Filed 6-22-79; 8:45 am]

BILLING CODE 3710-08

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Ad hoc Subcommittee of the Armed Forces Epidemiological Board
Date of Meeting: July 11, 1979
Place: Conference Room 3098, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.
Time: 0900–1630
Purpose: To discuss, review and make recommendations on the proposed protocol of an epidemiologic investigation of possible adverse health effects in Air Force personnel and veterans following exposure to Herbicide Orange during project "Ranch Hand."

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: June 20, 1979.

Charles W. Halverson,

CDR, MSC, USN, Executive Secretary.

[FR Doc. 79-19651 Filed 6-22-79; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Canadian Crude Oil Allocation Program Allocation Notice for the July 1 through September 30, 1979, Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby publishes the allocation notice specified in § 214.32 for the allocation period commencing July 1, 1979.

The issuance of Canadian crude oil rights for the July 1, 1979, allocation period to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) the name of each refiner and other firm to which rights have been issued; (2) the base period volume [1] of Canadian crude oil for each first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The issuance of Canadian crude oil rights is made pursuant to § 214.31, which provides that rights may be issued to refiners or other firms that own or control a first or second priority refinery based on the number of barrels of Canadian light and heavy crude oil, respectively, included in the refinery's volume of crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period, November 1, 1974, through October 31, 1975. These calculations have been made and are shown on a barrels per day basis.

The listing contained in the Appendix also reflects any adjustments made by ERA to base period volumes to compensate for reductions in volumes due to unusual or nonrecurring operating conditions or to reflect current operating conditions as provided by § 214.31(d).

Based on its review of the affidavits, supplemental affidavits and reports filed pursuant to Subpart D of Part 214, and other information available to the agency, ERA has designated each refinery or other facility listed in the Appendix as a first or second priority refinery as defined in § 214.21. If a refinery or other facility has not been designated as a priority refinery by ERA, such refinery of other facility is not entitled to process or otherwise consume Canadian crude oil subject to allocation under the program.

As provided by § 214.31(e), in the allocation period commencing July 1, 1979, each refinery or other firms which has been issued Canadian crude oil rights for light and heavy crude oil, respectively, is entitled to process, consume or otherwise utilize in the priority refinery or refineries specified in the Appendix to this notice a number of barrels of Canadian light and heavy crude oil, respectively, subject to allocation under Part 214, equal to the number of rights specified in the Appendix.

The Canadian National Energy Board (NEB) has advised ERA that the total volumes of Canadian light and heavy crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the three-month allocation period commencing July 1, 1979, will be as follows: The average export level for Canadian light crude oil will be 55,062 barrels per day (B/D) for July, August, and September. The average export level for Canadian heavy crude oil will be 72,708 B/D for July, 82,254 B/D for August, and 73,513 B/D for September. For purposes of determining allocations of Canadian heavy crude oil, it has been assumed that the average export level will be 76,187 B/D for the three months. Any change in the export levels for Canadian light crude oil, including condensate, and Canadian heavy crude oil anticipated for this allocation period will be reflected in revised allocations that will be issued in a supplemental allocation notice or notices.

The NEB has formally advised ERA of the following operational constraint with respect to the export of Canadian light crude oil for the allocation period:

—50 B/D of light crude oil through the Union Oil Pipeline from the Reagan field in Canada to the Thunderbird refinery (second priority) at Cut Bank, Montana.

ERA has given effect to this operational constraint in the allocations set forth in the Appendix.

Additionally, the NEB has formally advised ERA that no Canadian condensate is available for export through Sarnia for this allocation period. Consumers Power Company, Marysville, Michigan, a first priority refinery, usually nominates for and receives an allocation for light crude oil, all of which must be condensate. Consequently, no light crude oil will be allocated to Consumers Power Company, Marysville, for this allocation period.

Allocation of Canadian Light Crude Oil

The authorized export level for Canadian light crude oil for this allocation period is 55,062 B/D. The adjusted base period volumes of Canadian light crude oil for all first priority refineries nominating for light crude oil substantially exceeds the light crude export level. Accordingly, with the exception of allocations of light crude

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis.

oil required by the operational constraint, no allocations of light crude oil are shown for second priority refineries. The export level of light crude oil, as adjusted to reflect the operational constraint, was allocated among first priority refineries nominating for light crude oil, excluding Consumers Power Company, Marysville, on a pro rata basis in the following manner. First, an allocation factor of 0.502981 [2] was applied to each first priority refinery's adjusted base period volume of light crude oil. Second, the resulting allocation for Murphy Oil Corporation was reduced to conform to its nomination for light crude oil for its first priority refinery. Third, the allocation factor was recomputed [3] to reflect this adjustment and was reapplied to each first priority refinery's (excluding Murphy's Superior refinery) adjusted base period volume of light crude oil to arrive at the final allocations.

Allocation of Canadian Heavy Crude Oil

The authorized export level for Canadian heavy crude oil for July, August and September 1979, is an average of 76,187 B/D. Allocations of heavy crude oil were made according to the first of the six steps specified in § 214.31(a)(3).

First priority refineries for which nominations had been submitted were allocated heavy crude oil on a pro rata basis with reference to one-fourth of their total base period volumes of Canadian heavy crude oil. Allocations under the second through sixth steps specified in § 214.31(a)(3) were not necessary because there was not enough heavy crude oil to cover the total Canadian base period volumes for all first priority refineries for which nominations for heavy crude oil had been received.

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with ERA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the thirtieth day preceding each allocation period, provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(d)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before 30 days from the publication of this Notice.

Issued in Washington, D.C. on June 18, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

BILLING CODE 6450-01-M

[2] 0.502981 = Adjusted export level for Canadian light crude oil (55,062 B/D less 50 B/D to Thunderbird refinery = 55,012 B/D), divided by sum of adjusted base period volumes of Canadian light crude oil for first priority refineries nominating for Canadian light crude oil, excluding Consumers Power Marysville, (109,372 B/D).

[3] The factor as recomputed is 0.505077 = Adjusted export level for light crude oil (55,012 B/D), less allocation to Murphy's Superior refinery (10,000 B/D) = 45,012 B/D, divided by sum of first priority refineries' (excluding Murphy) adjusted base period volumes of light crude oil (89,119 B/D).

APPENDIX

CANADIAN ALLOCATION PROGRAM

RIGHTS - July 1, thru September 30, 1979
(Barrels Per Day)

		Base Period Volumes			Nominations		Allocation	
Priority	Refiner/Refinery	Total Canadian Runs	Canadian Light Crude Oil	Canadian Heavy Crude Oil	Light	Heavy	Light	Heavy
	AMOCO							
II	Whiting, Ind.	26,751	25,560	1,191	0	5,000	0	0
II	Casper, Wyo.	2,991	2,991	0	0	0	0	0
II	Mandan, N.D.	8,995	8,995	0	0	0	0	0
II	Sugar Creek, Mo.	317	317	0	0	0	0	0
	ARCO							
II	Cherry Point, Wash.	34,225	34,225	0	0	0	0	0
	ASHLAND							
II	Buffalo, N.Y.	36,752	32,033	4,719	0	0	0	0
II	Findlay, Ohio	2,198	33	2,165	0	0	0	0
I	St. Paul Park, Minn.	14,707 1/	13,127 1/	1,580 1/	40,000	20,000	6,570	4,640 2/
	CLARK							
II	Blue Island, Ill.	18,764	18,764	0	0	0	0	0
	CONSUMERS POWER							
I	Essexville, Mich.	13,872	13,872	0	0	0	0	0
I	Marysville, Mich.	27,306	27,306	0	17,500	0	0 3/	0
	CONTINENTAL							
I	Billings, Mont.	25,994	25,994	0	25,994	0	13,129	0
II	Denver, Colo.	4,639	4,639	0	4,638	0	0	0
II	Ponca City, Ok.	1,188	1,188	0	1,188	0	0	0
I	Wrenshall, Minn.	20,651	20,651	0	20,651	0	10,430	0
	CRA							
II	Coffeyville, Kan.	318	318	0	0	0	0	0
II	Phillipsburg, Kan.	173	173	0	0	0	0	0
II	Scottsbluff, Neb.	401	401	0	0	0	0	0
	CRYSTAL							
II	Carson City, Mich.	1,104	1,104	0	0	0	0	0
	DOW CHEMICAL, U.S.A.							
II	Bay City, Mich.	2,767	2,767	0	0	0	0	0
	ENERGY COOPERATIVE							
II	East Chicago, Ind.	10,804	10,267	537	0	0	0	0
	EXXON							
I	Billings, Mont.	15,908	15,908	0	16,000	0	8,035	0
	FARMERS UNION							
I	Laurel, Mont.	13,439	13,439	0	13,500	0	6,788	0
	GLADIEUX							
II	Fort Wayne, Ind.	774	774	0	0	0	0	0
	GULF							
II	Toledo, Ohio	13,253	13,253	0	0	0	0	0
	HUSKY							
II	Cheyenne, Wyo.	4,865	4,865	0	0	0	0	0
II	Cody, Wyo.	806	806	0	0	0	0	0
	KOCH							
I	Pine Bend, Minn.	44,383 1/	3,396 1/	40,987 1/	0	95,000	0	66,358 2/
	LAKE SUPERIOR D.P.							
I	Ashland, Wisc.	125	125	0	0	0	0	0
	LAKESIDE							
II	Kalamazoo, Mich.	1,240	1,240	0	0	0	0	0
	LAKETON							
II	Laketon, Ind.	141	10	131	0	0	0	0
	LITTLE AMERICA							
II	Casper, Wyo.	2,248	2,248	0	0	0	0	0
II	Sinclair, Wyo.	709	709	0	0	0	0	0

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	MARATHON							
II	Detroit, Mich.	10,301	10,159	142	13,900	0	0	0
	MOBIL							
II	Buffalo, N.Y.	24,995	24,995	0	0	6,036	0	0
II	Ferndale, Wash.	45,444	45,444	0	0	10,975	0	0
II	Joliet, Ill.	14,606	2,132	12,474	0	12,989	0	0
	MURPHY							
I	Superior, Wisc.	25,625	20,253	5,372	10,000	10,000	10,000	5,189
	MCRA							
II	McPherson, Kan.	836	836	0	0	0	0	0
II	PESTER REFINING CO. El Dorado, Kan.	196	196	0	0	0	0	0
	PHILLIPS							
II	Great Falls, Mont.	1,222	1,222	0	0	0	0	0
II	Kansas City, Kan.	3,352	3,105	247	0	0	0	0
	ROCK ISLAND							
II	Indianapolis, Ind.	1,063	1,063	0	0	0	0	0
	SHELL							
II	Anacortes, Wash.	55,919	55,919	0	0	0	0	0
II	Wood River, Ill.	8,673	8,673	0	0	0	0	0
	SOHIO							
II	Toledo, Ohio	29,182	29,182	0	15,000	10,000	0	0
	SUN							
II	Toledo, Ohio	16,427	16,427	0	0	0	0	0
	TENNECO							
II	Chalmette, La.	1,767	1,767	0	0	0	0	0
	TEXACO							
II	Anacortes, Wash.	41,229	41,229	0	0	0	0	0
II	Casper, Wyo.	1,380	1,380	0	0	0	0	0
II	Lockport, Ill.	1,244	1,244	0	0	0	0	0
	TEXAS AMERICAN							
II	West Branch, Mich.	2,011	2,011	0	0	0	0	0
	THE REFINERY CORP.							
II	Commerce City, Colo.	174	174	0	0	0	0	0
	THUNDERBIRD							
II	Cut Bank, Mont.	554	554	0	50	0	50 4/	0
	TOTAL PETROLEUM							
II	Alma, Mich.	9,727	3,020	6,707	0	8,000	0	0
	UNION OIL OF CALIF.							
II	Lemont, Ill.	11,711	11,711	0	10,000	20,000	0	0
	UNITED REFINING							
II	Warren, Pa.	9,917	9,789	128	0	0	0	0
	WYOMING REFINING CO.							
II	New Castle, Wyo.	676	676	0	0	0	0	0
	TOTAL PRIORITY I	202,010	154,071	47,939	143,645	125,000	55,012	76,187
	TOTAL PRIORITY II	469,029	440,588	28,441	44,776	73,000	50	0
	TOTAL I&II	671,039	594,659	76,380	188,421	198,000	55,062	76,187

1/ Adjusted.
2/ Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.
3/ No Condensate available for export through Sarnia to Consumers Power during this allocation period.
4/ Operational constraint.

[FR Doc. 79-19619 Filed 6-22-79; 8:45 am]
BILLING CODE 6450-01-C

Domestic Crude Oil Allocation Program; Entitlement Notice for April 1979

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: April 1979 Entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for April 1979.

DATES: Payments for entitlements required to be purchased under this notice must be made by June 30, 1979. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by July 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, NW., Room 6128I, Washington, D.C. 20461, (202) 254–8660.

Fred Wolgel (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room 6A–127, Washington, D.C. 20585, (202) 252–6754.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for April 1979 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); May 1979 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for April 1979 is calculated to be .196400.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of April 1979, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .325895 of a barrel of deemed old oil.

The issuance of entitlements for the month April 1979 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of April 1979 is hereby fixed at $10.53, which is the exact differential as reported for the month of April between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlement for the month of April 1979 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of April 1979 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of April 1979 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through March 1979 pursuant to 10 CFR 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column labeled "Exception and Appeals" addition entitlement issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see Beacon Oil Company, et al.* 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the April 1979 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its April 1979 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, *see Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the number of barrels sold to the Government totaled 3,015,734 barrels.

For the month of April 1979, imports of residual fuel oil eligible for entitlements issuances totaled 26,764,730 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California Lower Tier Crude Oil	8,001,436	19°
California Upper Tier Crude Oil	6,582,621	20°

The total number of entitlements required to be purchased and sold under this notice is 19,899,247.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for April 1979, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes [1]
Lower Tier	79,213,255	$6.33	17.2
Upper Tier	88,773,278	13.44	19.3
Exempt Domestic:			
Alaskan	39,838,502	14.77	8.7
Stripper	42,911,070	17.11	9.3
Naval Petroleum Reserve	2,799,381	14.95	.6
Tertiary	33,089	11.57	.0
Total Domestic	253,568,575	12.06	55.2
Total Imported	206,037,355	17.55	44.8
Total Reported Crude Oil Receipts	459,605,930	14.52	100.0
Total Uncontrolled (Exempt Domestic and Imported)	291,619,397	17.07	63.4
Total Reported Crude Oil Runs to Stills	459,429,475		

[1] Numbers may not add due to rounding.

BILLING CODE 6450-01-M

APPENDIX
ENTITLEMENTS FOR DOMESTIC CRUDE OIL
April 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
-CONSOL'D-SALES	-49,257	0	0	0	0	0	49,257*
A-JOHNSON	0	212,361	0	46,962	0	0	212,361
ALLIED	86,162	77,877	0	0	0	8,285	0
AMER-PETROFINA	968,532	821,193	0	0	0	147,339	0
AMERADA-HESS	1,763,345	2,879,592	0	71,009	0	0	1,116,247
AMOCO	9,624,893	6,326,118	0	35,438	0	3,298,775	0
ANCHOR	53,307	131,508	0	0	29,514	0	78,201
APEX	0	135,828	0	135,828	0	0	135,828
ARCO	3,470,759	4,433,518	0	0	12,542	0	962,759
ARIZONA	85,619	36,362	0	0	0	49,257	0
ASAMERA	100,501	128,697	0	0	0	0	28,196
ASHLAND	1,141,125	2,525,749	0	147,795	0	0	1,384,624
BASIN	23,748	147,007	0	0	8,600	0	123,259
BAYOU	9,347	56,024	0	0	0	0	46,677
BEACON	193,245	134,515	-16,178	0	26,481	58,730	0
BELCHER	0	156,169	0	156,169	0	0	156,169
BI-PETRO	31,075	227,627	0	0	0	0	196,552
BRUIN	38,741	115,681	0	0	0	0	76,940
C&H	138	165	0	0	0	0	27
CALCASIEU	40,342	76,499	0	0	0	0	36,157
CALUMET	12,720	24,480	0	0	0	0	11,760
CANAL	89,139	79,341	0	0	0	9,798	0
CARBONIT	40,318	105,151	0	0	0	0	64,833
CARIBOU	77,344	73,995	0	0	10,452	3,349	0
CENTRAL	0	6,874	0	6,874	0	0	6,874
CHAMPLIN	1,360,773	1,336,068	0	0	176,626	24,705	0
CHARTER	924,889	612,527	70,657	31,949	0	312,362	0
CHEVRON	5,291,796	6,420,130	0	11,434	252,739	0	1,128,334
CIRRO	0	208,072	0	47,066	0	0	208,072
CITGO	1,982,954	1,473,979	0	0	0	508,975	0
CLAIBORNE	65,575	32,510	0	0	0	33,065	0
CLARK	342,825	655,215	0	0	0	0	312,390
COASTAL	243,397	1,078,772**	0	90,183	0	0	835,375
COLONIAL	0	21,163	0	21,163	0	0	21,163
CONOCO	2,221,445	1,927,241	0	0	65,906	294,204	0
CONSUMERS-POWER	0	49,855	0	49,855	0	0	49,855
CORAL	0	243,670	0	0	0	0	243,670
CORCO	1,257	1,125,778	500,806 ***	293,049	459	0	1,124,521
CRA-FARMLAND	316,536	472,302	0	0	0	0	155,766
CROSS	59,345	107,443	0	0	0	0	48,098
CROWN	298,975	619,958	0	0	0	0	320,983
CRYSTAL-OIL	120,360	138,101	0	0	0	0	17,741
CRYSTAL-REF	0	13,500	0	0	0	0	13,500
DELTA	208,407	253,726	0	0	0	0	45,319
DEMENNO	12,799	119,199	0	0	5,847	0	106,400
DETROIT-ED	0	42,309	0	42,309	0	0	42,309
DESC	0	43,307	0	43,307	0	0	43,307
DIAMOND	714,504	364,452	0	0	0	350,052	0
DILLMAN	0	336	0	0	0	0	336
DORCHESTER	5,761	207,405	0	0	0	0	201,644
DOW	55,030	124,190	0	0	0	0	69,160
E-SEABOARD	0	57,389	0	57,389	0	0	57,389
ECO	16,522	86,581	0	0	6,177	0	70,059
EDDY	41,731	44,074	0	0	0	0	2,343
ENERGY-COOP	2,021	521,975	12,028	0	0	0	519,954
ERGON	85,140	44,220	0	0	0	40,920	0
ERICKSON	14,287	129,881	0	0	0	0	115,594
EVANGELINE	35,598	37,185	0	0	0	0	1,587
EXXON	9,033,136	8,089,936	0	405,441	0	943,200	0
EZ-SERVE	31,830	50,057	0	0	0	0	18,227
FARMERS-UN	190,566	218,196	0	0	0	0	27,630
FLETCHER	56,616	281,725	0	0	19,500	0	225,109
FLINT	7,908	8,708	0	0	0	0	800
FRIENDSWOOD	136,181	104,124	0	0	32,122	32,057	0
FUNDING	66,456	64,643	0	0	0	1,813	0
GARY	214,777	127,560	0	0	0	87,217	0
GETTY	1,148,588	1,139,737	0	0	0	8,851	0
GIANT	36,025	51,908	0	0	0	0	15,883

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
GLACIER-PARK	110,416	51,568	0	0	0	58,848	0
GLADIEUX	48,867	111,254	0	0	0	0	62,387
GOLDEN-EAGLE	0	138,280	0	0	0	0	138,280
GOLDKING	127,274	152,220	0	0	0	0	24,946
GOOD-HOPE	40,414	265,833	0	0	0	0	225,419
GUAM	0	281,045	0	0	0	0	281,045
GULF	7,870,625	5,515,504	40,011	38,051	69,894	2,355,121	0
GULF-STS	8,972	97,606	0	0	0	0	88,634
HIRI	0	292,321	0	0	0	0	292,321
HOWELL	273,692	267,891	0	0	0	5,801	0
HUDSON-OIL	30,388	167,797	0	0	0	0	137,409
HUNT	200,254	215,822	0	0	0	0	15,568
HUSKY	540,813	540,813	247,193	0	0	0	0***
INDEPENDENT-REF	71,011	114,790	0	0	0	0	43,779
INDIANA-FARM	39,481	171,645	0	0	0	0	132,164
INDUST-FUEL	0	61,396	0	0	0	0	61,396
INTER-PETRO	0	14,258	0	14,258	0	0	14,258
INTER-PROCESS	380,712	219,074	0	0	0	161,638	0
IRVING	0	23,370	0	23,370	0	0	23,370
KENCO	41,486	42,092	0	0	0	0	606
KENTUCKY	16,693	12,212	0	0	0	4,481	0
KERN	104,516	328,137	186,036	0	11,800	0	223,621
KERR-MCGEE	1,138,746	773,494	0	0	0	365,252	0
KOCH	276,564	784,762	0	0	0	0	508,198
LAGLORIA	425,267	276,598	0	0	0	148,669	0
LAKESIDE	31,115	31,493	0	0	0	0	378
LAKETON	150,510	108,885	19,144	0	0	41,625	0
LITTLE-AMER	1,321,026	536,668	74,030	0	0	784,358	0
LOUISIANA-LAND	330,775	286,185	0	0	0	44,590	0
MACMILLAN	77,452	167,612	0	0	12,037	0	90,160
MARATHON	3,992,345	2,638,676	0	0	0	1,353,669	0
MARION	85,096	133,180	0	0	0	0	48,084
METROPOLITAN	0	146,074	0	146,074	0	0	146,074
MID-AMER	1,454	30,896	0	0	0	0	29,442
MOBIL	6,193,388	4,717,013	0	0	357,377	1,476,375	0
MOBILE-BAY	0	188,754	0	0	0	0	188,754
MOHAWK	424,274	355,333	71,305	0	50,400	68,941	0
MONOCO	0	18,141	0	18,141	0	0	18,141
MONSANTO	311,503	299,438	0	0	0	12,065	0
MORRISON	18,997	10,005	0	0	0	8,992	0
MOUNTAINEER	8,567	7,081	0	0	0	1,486	0
MT-AIRY	101,958	137,740	0	0	0	0	35,782
MURPHY	900,780	631,024	0	0	0	269,756	0
N-AMER-PETRO	14,285	180,974	0	0	0	0	166,689
NATL-COOP	241,647	376,288	0	0	0	0	134,641
NAVAJO	335,765	201,642	0	0	0	134,123	0
NEVADA	26,325	31,272	0	0	0	0	4,947
NEW-EDGINGTON	686,798	457,699	59,565	0	169,362	229,099	0
NEW-ENGL-PETRO	J	142,467	0	142,467	0	0	142,467
NEW-ENGL-POWER	0	79,123	0	79,123	0	0	79,123
NEWHALL	244,101	226,879	0	0	51,410	17,222	0
NORTHEAST-PETRO	0	64,324	0	64,324	0	0	64,324
NORTHLAND	35,498	35,498	17,491	0	0	0	0
NORTHVILLE	0	18,259	0	18,259	0	0	18,259
OKC	121,657	196,111	0	0	0	0	74,454
OKLA-REF	63,695	133,995	0	0	0	0	70,300
OXNARD	33,509	53,400	0	0	16,592	0	19,891
PEERLESS	0	69,182	0	0	0	0	69,182
PEMEX	0	199,760**	0	0	0	0	199,760
PENNZOIL	574,818	358,636	0	0	0	216,182	0
PESTER	112,170	158,781	0	0	0	0	46,611
PHILLIPS	2,471,646	1,714,371	0	0	32	757,275	0
PHILLIPS-PR	0	195,218	0	195,218	0	0	195,218
PIONEER	58,902	61,187	0	0	0	0	2,285
PLACID	406,142	248,056	0	0	0	158,086	0
PLATEAU	192,989	184,753	0	0	0	8,236	0
PORT	24,106	10,241	-4,479	0	0	13,905	0
POWERINE	138,717	279,186	0	0	32,046	0	140,469

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
PRIDE	131,531	260,282	0	0	0	0	128,751
QUAD	34,653	83,344	0	0	19,186	0	68,691
QUAKER-ST	54,900	204,527	0	0	0	0	149,627
QUITMAN	33,658	87,689	0	0	7,217	0	54,031
RANCHO-REF	6,206	14,722	0	0	0	0	8,516
RAYMAL	6,951	23,448	0	0	0	0	16,497
RICHARDS	225	67,264	0	0	0	0	67,039
RICO	0	1,002	0	1,002	0	0	1,002
ROAD-OIL	0	5,000	0	0	0	0	5,000
ROCK-ISLAND	213,829	301,096	0	0	0	0	87,267
SABER-TEX	23,993	251,420	0	0	0	0	227,427
SABRE-CAL	67,895	100,861	0	0	7,913	0	32,966
SAGE-CREEK	3,778	3,881	0	0	0	0	103
SAN-JOAQUIN	308,795	272,108	18,382	0	100,264	36,687	0
SCALLOP	0	261,116	0	261,116	0	0	261,116
SCANOIL	0	52,694	0	52,694	0	0	52,694
SCHULZE	10,543	14,146	0	0	0	0	3,603
SECTOR	53,238	30,770	0	0	0	22,468	0
SEMINOLE	12,676	134,470	0	0	0	0	121,794
SENTRY	52,216	297,865	151,899	0	6,016	0	245,649
SHELL	8,533,343	5,891,750	0	0	337,875	2,641,593	0
SHEPHERD	20,057	50,360	0	0	0	0	30,303
SIGMOR	20,936	180,509	0	0	0	0	159,573
SILVER-EAGLE	140	694	0	0	0	0	554
SLAPCO	27,485	62,445	0	0	0	0	34,960
SM-HAMPTON	75,667	126,992	0	0	0	0	51,325
SOHIO	1,399,267	2,383,332	0	21,631	0	0	984,065
SOMERSET	15,625	43,736	0	0	0	0	28,111
SOUND	-6,538	75,858	0	0	-1,026	0	82,396
SOUTHERN-UNION	187,806	209,645	0	0	0	0	21,839
SOUTHLAND	317,719	253,396	67,255	0	0	64,323	0
SOUTHWESTERN	6,376	7,964	0	0	0	0	1,588
SPRAGUE	0	46,962	0	46,962	0	0	46,962
STEUART	0	82,546	0	82,546	0	0	82,546
SUNLAND	1,878	131,945	0	0	0	0	130,067
SUNOCO	3,561,800	3,331,890	5,180	16,301	0	229,910	0
SWANN	0	20,657	0	20,657	0	0	20,657
T&S	30,379	64,051	0	0	0	0	33,672
TENNECO	996,853	652,382	0	0	21,891	344,471	0
TESORO	217,322	428,924	0	34,240	0	0	211,602
TEXACO	7,173,625	6,192,463	0	225,529	212,226	981,162	0
TEXAS-AMERICAN	112,527	95,827	0	0	0	16,700	0
TEXAS-ASPH	36,472	22,179	0	0	0	14,293*****	0
TEXAS-CITY	617,801	569,972	0	0	0	47,829	0
THAGARD	202,737	186,303	5,904	0	50,325	16,434	0
THRIFTWAY	52,739	59,698	0	0	0	0	6,959
THUNDERBIRD	70,031	62,450	0	0	0	7,581	0
TIPPERARY	39,632	52,886	0	0	0	0	13,254
TONKAWA	64,976	79,532	0	0	0	0	14,556
TOSCO	1,816,989	1,432,427	0	0	339,371	384,562	0
TOTAL-PETROLEUM	246,638	382,380	0	0	0	0	135,742
TRAMMO	0	14,272	0	14,272	0	0	14,272
UCC-CARIBE	0	113,663	0	113,663	0	0	113,663
UCO	0	19,061	0	19,061	0	0	19,061
UNI-REF	8,918	127,217	0	0	0	0	118,299
UNION-OIL	3,029,011	2,853,319	0	0	176,107	175,692	0
UNTD-REF	121,732	289,509	0	0	0	0	167,777
US-OIL	21,834	181,290	0	0	4,444	0	159,456
USA-PETROCHEM	-8,908	161,504	0	0	-1,175	0	170,412
VAL-VERDE	693	1,730	0	0	0	0	1,037
VICKERS	183,992	418,818	0	0	0	0	234,826
VICKSBURG	6,079	33,901	0	0	0	0	27,822
WALLER	0	10,066	0	10,066	0	0	10,066
WARRIOR	50,605	43,812	13,941	0	0	6,793	0
WEST-COAST	77,266	93,833	0	0	24,217	0	16,567
WESTERN	67,943	109,119	0	0	0	0	41,176
WINSTON	114,198	154,211	0	0	0	0	40,013
WIREBACK	0	1,036	0	0	0	0	1,036

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
WITCO	118,656	193,197	0	0	21,103	0	74,541
WYATT	0	21,705	0	21,705	0	0	21,705
WYOMING	48,807	113,294	0	0	0	0	64,887
YETTER	0	694	0	0	0	0	694
YOUNG	62,781	74,139	36,758	0	0	0	11,358
TOTAL	105,381,970	105,381,970	1,576,928	3,373,950	2,743,878	19,899,247	19,899,247

* See discussion in Notice.

** Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.

*** Authorization to sell these entitlements is subject to conditions set forth in a DOE Decision and Order issued to Commonwealth Oil and Refining Company on March 20, 1978.

**** This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in Husky Oil Co. v. DOE, et al., Civ. Action No. C77-190-B (D.Wyo., filed March 14, 1978), remanded ____ F.2d ____ (No. 10-18 TECA, August 10, 1978).

***** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-258 (N.D. Tex., filed October 31, 1975).

[FR Doc. 79-19631 Filed 6-20-79; 2:28 pm]
BILLING CODE 6450-01-C

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for April 1979 must be made by June 30, 1979.

On or prior to July 10, 1979, each firm which is required to purchase or sell entitlements for the month of April 1979 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of April. The monthly transaction report forms for the month of April have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by June 30, 1979 are requested to contact the ERA at (202) 254–3336 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to June 30, 1979, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before July 25, 1979.

Issued in Washington, D.C., on June 19, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Federal Energy Regulatory Commission

Belden & Blake and Co., et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

June 14, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual volume
9. Date received at FERC
10. Purchaser(s).

1. 79–07162
2. 34–151–22948–0014–
3. 103
4. Belden & Blake and Co L P No. 70
5. G & V Garren Comm #2–876
6.
7. Stark, OH
8. 10.0 million cubic feet
9. June 7, 1979
10.

1. 79–07163
2. 34–157–23284–0014–
3. 103
4. Belden & Blake and Co L P No. 70
5. R Roberts Comm #1–875
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. June 7, 1979
10.

1. 79–07164
2. 34–151–22950–0014–
3. 103
4. Belden & Blake and Co L P No. 70
5. G & L Marchand #2–869
6.
7. Stark, OH
8. 10.0 million cubic feet
9. June 7, 1979
10.

West Virginia Department of Mines

Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s).

1. 79–07165
2. 47–079–20927–
3. 103
4. Appalachian Exploration & Devel Inc
5. Mclean Heirs A–14
6. Union
7. Putnam, WV
8. .0 million cubic feet
9. May 22, 1979
10. Cabot Corporation.

1. 79–07166
2. 47–033–01060–
3. 103
4. Consolidated Gas Supply Corp.
5. Lavina McMillan 12262
6. W Va Other A–85772
7. Harrison, WV
8. 25.0 million cubic feet
9. May 22, 1979
10. General System Purchasers.

1. 79–07167
2. 47–041–02174–
3. 103
4. Consolidated Gas Supply Corporation
5. Wm Winans 12487
6. W Va Other A–85772
7. Lewis, WV
8. 45.0 million cubic feet
9. May 22, 1979
10. General System Purchasers.

1. 79–07168
2. 47–033–21118–
3. 103
4. Chrisman Drilling Company
5. Boggess-Lucas 2
6. Eagle
7. Harrison, WV
8. 25.0 million cubic feet
9. May 22, 1979
10. Equitable Gas Company.

1. 79–07169
2. 47–041–22552–
3. 103
4. Appalachian Energy Inc D.B.A. LDR
5. Glen Rohr A–E–43
6. Hackers Creek
7. Lewis, WV
8. 3.0 million cubic feet
9. May 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–07170
2. 47–033–01216–
3. 103
4. Consolidated Gas Supply Corporation
5. L H Young 12481
6. W Va Other A–85772
7. Harrison, WV
8. 70.0 million cubic feet
9. May 22, 1979
10. General System Purchasers.

1. 79–07171
2. 47–039–22766–0014–
3. 103
4. Quaker State Oil Refining Corp.
5. G Carte #2 62645–2
6. Elk District
7. Kanawha, WV
8. 8.0 million cubic feet
9. May 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–07172
2. 47–039–22822–0014–
3. 103
4. Quaker State Oil Refining Corp.
5. Nunley #2 62075–2
6. Elk District
7. Kanawha, WV
8. 5.7 million cubic feet
9. May 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–07173
2. 47–107–20817–
3. 103
4. Appalachian Exploration & Devel Inc
5. W I Cale #7
6. Walker
7. Wood, WV
8. .0 million cubic feet
9. May 22, 1979
10. Cabot Corporation.

U.S. Geological Survey

Metairie, Louisiana

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s).

1. 79-04748
2. 17-705-40217-0000-0
3. 102
4. Mobil Oil Corporation
5. Vermilion Block 23 A-7B
6. Vermilion
7. 23
8. 5661.0 million cubic feet
9. June 7, 1979
10. Trunkline Gas Company, Florida Gas Transmission Company, Florida Power & Light, Texas Eastern Transmission Corp.

1. 79-04753
2. 17-711-40367-0000-0
3. 102
4. Mobil Oil Corporation
5. Ship Shoal Block 72 12A
6. Ship Shoal
7. 72
8. 4440.0 million cubic feet
9. June 7, 1979
10. Transcontinental Gas P/L Corp.

1. 79-07158
2. 17-719-40125-0000-0
3. 102
4. Mesa Petroleum Co.
5. West Delta Blk 61 Well A-7D
6. West Delta
7. 61
8. 1825.0 million cubic feet
9. May 17, 1979
10. Tennessee Gas Pipeline Company.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objection to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before July 10, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19586 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-429]

Black Hills Power & Light Co.; Filing

June 18, 1979.

The filing Company submits the following:

Take notice that Black Hills Power and Light Company, on June 8, 1979 tendered for filing proposed changes in its FPC Electric Service Tariff contained in FPC Docket No. ER78-402. The proposed changes would increase revenues from jurisdictional sales and service by $700,083 based on the 12 month period ending December 31, 1978, at rates presently in effect.

The reason for the proposed increase in rates, briefly, is that the existing rate is so low that the Company is earning less than three percent rate of return on capital invested to render the municipal wholesale services, which the Company believes is unreasonable.

Copies of the filing were served upon the public utility's jurisdictional customers and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19588 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP76-94, et al.]

Columbia Gas Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

June 18, 1979.

Take notice that the pipelines listed below hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any such person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before July 6, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Filing date	Company	Docket No.	Type filing
5/17/79	Columbia Gas	RP76-94, *et al*	Report
6/4/79	Tennessee	RP71-11, *et al*	Report
6/5/79	Southern Natural	RP77-31	Report

[FR Doc. 79-19589 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP 78-19, RP 78-20]

Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.; Certification of Settlement

June 18, 1979

Take notice that on May 11, 1979, Presiding Administrative Law Judge Samuel Z. Gordon certified to the Commission a proposed Supplemental Stipulation and Agreement together with Exhibits 52, 52a, 53, 54, 54a, 54b, 54c. If approved, the Agreement will resolve certain depreciation issues which had been reserved for hearing in the Stipulation and Agreement of March 30, 1979, certified to the Commission by the undersigned on April 2, 1979.

Any person desiring to be heard or to protest said settlement agreement should file comments and/or reply comments with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, and should serve the same on all parties to this proceeding. Comments should be filed on or before June 25, 1979. All comments will be considered by the Commission in Determining the appropriate action to be taken. Copies of the agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19590 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-432]

Connecticut Light & Power Co.; Third and Fourth Amendments to Purchase Agreement

June 18, 1979.

The filing Company submits the following:

Take notice that on June 11, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed Third Amendment and Fourth Amendment to Purchase Agreement With Respect to Various Gas Turbine Units (II) (Amendments) dated October 1, 1978 and January 17, 1979, respectively between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), and (2) Vermont Electric Cooperative, Inc. (VEC).

CL&P states that the Third Amendment provides for an extension of the Third Capability Period from October 31, 1978 to November 30, 1978.

CL&P also states that the Fourth Amendment provides for a change in the Percentages of Capability to be purchased by VEC for the period from March 1, 1979 to November 30, 1979 (the Fourth Capability Period) and extends the terms of the Fourth Capability Period.

CL&P states that an oversight on the part of VEC in returning the Third Amendment delayed the filing of the Third Amendment until this date.

CL&P also states that the details of the Fourth Capability Period were not decided until a date which prevented the preparation, execution and filing of the Fourth Amendment with the Commission until this date.

CL&P therefore requests that, in order to permit VEC to receive the urgently needed additional capacity and energy pursuant to the terms of the Third and Fourth Amendments and to allow WMECO to receive payment for such capacity and energy, the Commission, pursuant to Section 35.11 of its regulations, waive the sixty-day notice period and permit the Third Amendment filed to become effective on November 1, 1978 and permit the Fourth Amendment filed to become effective on March 1, 1979.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and VEC, Johnson, Vermont.

CL&P also states that no facilities are to be installed or modified in order to supply the service to be furnished under the Third and Fourth Amendments.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19591 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-437]

Detroit Edison Co.; Notice of Filing

June 18, 1979.

The filing Company submits the following:

Take notice that The Detroit Edison Company (Detroit Edison), on June 12, 1979, tendered for filing a Limited Term Transmission Service Agreement Between The Detroit Edison Company and The Dow Chemical Company (Dow-Midland), dated May 25, 1979. The Commission has no previous designation for this rate schedule.

Detroit Edison states that the Agreement provides for transmission service for energy received by Detroit Edison from Ontario Hydro, such energy being generated by The Dow Chemical Company of Canada, Limited in Sarnia, Ontario and delivered by Detroit Edison to Consumers Power Company for ultimate use at Dow-Midland's facilities in Midland, Michigan. Detroit Edison proposes to charge Dow-Midland a rate of 1.7 mills per kilowatt-hour for energy so received and delivered in amounts not to exceed 70,000 kilowatthours per hour. The service will be provided only for a limited period of time, to commence upon acceptance for filing by the Commission and to expire no later than December 31, 1982.

Any person desiring to be heard or to protest said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1979. 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 the Agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19592 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-433]

Duke Power Co.; Supplement to Electric Power Contract

June 18, 1979.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on June 11, 1979 a supplement to the Company's Electric Power Contract with Wake Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 270.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand: Delivery Point No. 1 from 2,000 KW to 3,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of August 20, 1979.

According to Duke Power copies of this filing were mailed to Wake Electric Membership Corporation and the North Carolina Utilities Commission.

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, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1979. 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. 79-19593 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-434]

Duke Power Co.; Supplement to Electric Power Contract

June 18, 1979.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on June 11, 1979 a supplement to the Company's Electric Power Contract with the City of High Point. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 264.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand:

Delivery Point No. 1 from 55,000 KW to 0 KW,
Delivery Point No. 2 from 5,000 KW to 0 KW, and
Delivery Point No. 3 from 40,000 KW to 130,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of August 20, 1979.

According to Duke Power copies of this filing were mailed to the City of High Point and the North Carolina Utilities Commission.

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, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1979. 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. 79-19594 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CI78-742, CI78-1165]

Exxon Corp, and Issac Arnold, Jr. *et al.*; Order Providing for Hearing Setting Pre-Hearing Conference and Consolidating Proceedings

Issued: June 13, 1979.

On May 8 and September 1, 1978, Exxon Corporation (Exxon) and Isaac Arnold, Jr. *et al.* respectively, filed applications in Docket Nos. CI78-742 and CI78-1165, respectively, for authorization to abandon their gas sales to United Gas Pipe Line Company (UGPL) from the Garden City Field, St. Mary Parish, Louisiana. The sales are covered under contracts dated June 15, 1958, as amended June 18, 1963, which provided for the sale to UGPL of 120,000 Mcf a day. Exxon's interest is covered under its certificate issued in Docket No. G-17207. As the reason for abandonment, Applicants state that the subject contracts will expire under their own terms on September 15, 1979. [1] Applicants claim that the Garden City Field reserves which remain to be produced upon expiration of the UGPL contracts are committed to Columbia Gas Transmission Corporation (Columbia) [2] pursuant to contracts dated June 28, 1963.

Applicants initiated sales to UGPL pursuant to June 15, 1958, contracts which provided for daily contract quantities based on the delivery capacity of the dedicated acreage. On June 18, 1963, Applicants amended their contracts and filed amendments to their certificates to limit the dedication to 120,000 Mcf per day from the subject acreage. All quantities of gas produced by seller from the subject acreage in excess of 120,000 Mcf/day were excluded from the UGPL contracts. Applicants' certificates were amended to reflect the deletion of interests pursuant to these contract amendments. As presently structured, Applicants are obligated to deliver up to 120,000 Mcf/day to UGPL under contracts whose primary terms will expire September 15, 1979.

At the time the June 18, 1963, agreements were executed amending the June 15, 1958, UGPL contracts, Applicants also entered into the June 28, 1963, Columbia contracts for the sale [3] of such excess gas from the Garden City Field not committed to the June 15, 1958, UGPL contracts. The Columbia contracts are effective from the date of first delivery for the life of the leases or until the quantity of gas delivered equals sellers' reserve commitment, whichever occurs first. The Exxon-Columbia basic contract stipulates a reserve commitment of 6.1 billion Mcf of gas whereas the Arnold-Columbia basic contract does not stipulate a specific quantity. The Arnold-Columbia contract sale is currently being made under Isaac Arnold, *et al.*'s small producer certificate issued in Docket No. CS71-749. The Exxon-Columbia contract is on file as Exxon's Gas Rate Schedule No. 357 for which the related certificate was issued in Docket No. CI64-5.

The Exxon-Columbia basic contract covers sales from reserves underlying five fields (Garden City, Lake Sand, Pecan Island, Lirette and West Delta Block 27), and the contract acknowledged three contractual commitments for the sale of gas to three different purchasers, which are to: (1) Southern Natural Gal Company pursuant to a June 21, 1962, contract, (2) Sinclair Oil Gas Company pursuant to a January 1, 1952, gas exchange agreement, and (3) UGPL pursuant to the June 15, 1958, contract which is subject to the instant abandonment application of Exxon hereof in Docket No. CI78-742. [4] Exxon states in its abandonment application that it is currently still continuing deliveries to Southern Natural, whereas the gas exchange had been abandoned as authorized by Commission order of December 4, 1972, issued in Docket No. CI72-859.

Columbia filed on July 10, 1978, and November 22, 1978, petitions to intervene in support of Exxon's and Arnold's abandonment applications, respectively.

Pennsylvania Gas and Water Company, a customer of Columbia, filed on November 21, 1978, a petition to intervene in Docket No. CI78-1165 in support of Arnold's abandonment application.

Extex, Inc., Mississippi River Transmission Corporation (MRT) and UGPL filed on June 9, 1978, petitions to intervene to Exxon's abandonment application. On that same date the State of Louisiana filed its Notice of

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[1] The UGPL contracts provide for a term of 20 years from the date of commencement of deliveries which was September 15, 1959.

[2] Successor to United Fuel Gas Company.

[3] Gas is delivered to Columbia Gulf Transmission Company for the account of Columbia Gas Transmission Corporation; both are subsidiaries of the Columbia Gas System, Inc.

[4] The Arnold-Columbia contract does not contain such acknowledgement of contractual committements.

Intervention in Docket No. CI78–742. Entex filed on January 8, 1979, a petition to intervene out of time in Arnold's abandonment application.

The State of Louisiana states in its notice that UGPL serves a large portion of Louisiana (including the City of New Orleans) and is experiencing deep curtailments, and if Exxon's proposed abandonment is granted, UGPL's gas supply could be reduced by up to 80,000 Mcf a day or approximately 12 million Mcf over a winter season.

Entex states that it is wholly dependent upon UGPL for its supply of gas for its distribution system serving 360,000 predominently domestic customers in East Texas, Louisiana and Southern Mississippi, and if Applicant's proposed abandonments are granted, UGPL's supply capabilities would be adversely affected and the level and incidence of curtailment of UGPL's system would necessarily increase to the possible detriment of Entex and the customers it serves. Entex states that it is imperative that a formal hearing be held.

MRT states that Exxon's proposed abandonment will have an immediate and direct adverse impact upon the service rendered by UGPL to it and in turn upon MRT from both supply and cost of supply standpoints. MRT states it purchases over one-half of its total gas supply from UGPL which has been curtailing deliveries to MRT.

UGPL opposes Exxon's abandonment application and requests formal hearing. UGPL states it is a major interstate gas pipeline company serving approximately 400 city-gate and 200 direct industrial customers in Louisiana, Mississippi, Southern Alabama, Northwest Florida, and Eastern Texas and supplies gas to six other interstate pipeline companies for resale to consumers throughout the eastern half of the United States. Additionally, UGPL states that as a result of the nationwide natural gas shortage, UGPL has been forced to curtail service to its customers since November 1970. UGPL adds that as the shortage has intensified, UGPL's curtailments have increased reaching 707 Bcf (or 44 percent of firm requirements systemwide) during the twelve month period ending March 1978, being the largest shortage, both in volumetric and percentage terms, of any pipeline in the country.

In support of its opposition to Exxon's proposed abandonment, UGPL asserts in its petition that the Garden City Field is an extremely important source of supply to UGPL which, under its June 15, 1958, contract, is entitled to purchase up to 120,000 Mcf of gas per day. Historically, UGPL had received 110,000 Mcf per day under the June 15, 1958, contract of which 55,000 Mcf was attributable to Exxon's interest. Because of declining deliverability, UGPL is presently receiving approximately 90,000 Mcf per day. UGPL states that 45,000 Mcf of this volume is attributable to Exxon's interest for which abandonment is being sought. UGPL further states that a loss of this 45,000 Mcf per day would amount to an aggregate loss of 6.8 Bcf for the winter which would result in curtailment of certain requirements of UGPL's system.

UGPL asserts that under Section 7(b) of the Natural Gas Act, service can be terminated only upon a finding that either (1) the available supply is depleted, which is inapplicable here, or (2) the present or future public convenience or necessity permit such abandonment. The reason for Exxon's proposed abandonment is that the Exxon-UGPL contract expires September 15, 1979. UGPL cites that the D.C. Circuit held in the *La Gloria Field* case that the mere fact that a contract terminates does not support diversion of gas from one pipeline to another. (*Transcontinental Gas Pipeline Corp. v. FPC*, 488 F. 2d 1325 (D.C. Cir. 1973)). UGPL adds that given the increasing threat to high priority customers on its system, it is clear that the public convenience and necessity will not permit Exxon to abandon service to UGPL and thus opposes Exxon's application.

On December 13, 1978, UGPL filed a petition requesting consolidation of the abandonment applications in any formal hearing held.

The Commission finds: (1) Participation in this proceeding by petitioners as stated above may be in the public interest.

(2) it is in the public interest that a prompt hearing be held to develop a record upon which a decision may be made as to these applications.

(3) It is in the public interest to consolidate these proceedings for purposes of hearing and decision.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particulary Section 7 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations Under the Natural Gas Act (18 CFR Chapter 1) a prehearing conference shall be held at which time the parties shall be prepared to delineate the issues in this proceeding and agree upon a prompt hearing schedule.

(B) Docket No. CI78–742 and CI78–1165 are hereby consolidated for the purpose of hearing and decision.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene the prehearing conference in this proceeding to be held within thirty (30) days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, for the purpose of delineating the issues in this proceeding and establishing a prompt hearing schedule. The presiding judge is authorized to establish procedures or to rule upon all motions (except motions to consolidate and sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(D) The above stated petitions to intervene are hereby granted subject to the rules and regulations of the Commission: *Provided,* however, that participation of petitioners shall be limited to matters specifically set forth in their individual petitions to intervene; and *Provided, further,* that the admission of intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order issued in this proceeding.

(E) The Secretary shall cause prompt publication of this order to be made in the **Federal REgister.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–18595 Filed 6–22–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–35]

Florida Gas Exploration Co.; Preliminary Finding Regarding Qualification as a New, Onshore Production Well

Issued: June 15, 1979.

On May 2, 1979, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission a notice of determination, which states that the Florida Gas Exploration Company 7900 RA SUA L&N RR Co., No. 6 well, API Well No. 1707120020, qualifies as a new, onshore production well under Section 103 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published Louisiana's notice on May 14, 1979. The notice then was published in the **Federal Register** on May 21,1979.

A well qualifies as a new, onshore production well under Section 103 of the

NGPA only if, among other requirements, the surface drilling for the well began on or after February 19, 1977.

The information accompanying the determination indicates that the subject well was a reeentry into an old well. The old well was completed on April 2, 1970 and produced natural gas intermittently until June 11, 1977, when the well was plugged and abandoned. After a change of ownership, the well was reopened sometime after February 19, 1977. Once reopened, the well was plugged at about the 4,500 foot level. The well then was sidetracked (drilled at an angle) from that level so that the well would be bottomed at a point approximately 700 feet south of the surface location of the old well.

This evidence indicates that the surface drilling of the Florida Gas Exploration Company 7900 RA SUA L&N RR Co. No. 6 well was not begun on or after February 19, 1977. Thus, it appears that the record does not contain substantial evidence to support Louisiana's determination that the well qualifies as a new, onshore production well under Section 103 of the NGPA.

Accordingly, the Commission makes a preliminary finding (pursuant to 18 CFR 275.202(a)(1)(i)) that the determination submitted by Louisiana is not supported by substantial evidence in the record on which the determination was based.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19609 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-426]

Florida Power & Light Co.; Notice of Filing

June 18, 1979.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL) on June 7, 1979 tendered for filing an updated capacity charge for services under Service Schedule B of the Contract for Interchange Service Between Florida Power & Light Company and Tampa Electric Company. FPL states that the revised capacity charge has been calculated in accordance with the provisions of Service Schedule B and represents an updating of currently effective capacity charge to reflect more current costs. FPL requests an effective date for this revised capacity charge of May 1, 1979. According to FPL, a copy of this filing was served upon Tampa Electric Company.

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, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1979. 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. 79-19596 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-33]

George R. Schurman; Preliminary Finding Regarding Qualification as a New, Onshore Production Well

Issued: June 15, 1979.

On May 2, 1979, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission a notice of determination, which states that the George R. Schurman Norris SUA Baker No. 2, API Well No. 1703120884, JD79-3446, well qualifies as a new, onshore production well under Section 103 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published Louisiana's notice on May 9, 1979. The notice then was published in the **Federal Register** on May 17, 1979.

To qualify as a new, onshore production well under Section 103 of the NGPA, the well, among other requirements, must not be located on certain existing proration units. Section 103(c)(3) of the NGPA. Section 271.305 of our interim regulations (18 CFR 271.305) enumerates the special circumstances were a new well can be drilled on an existing proration unit and still be eligible for a Section 103 determination. For a new well drilled between February 19, 1977 and December 31, 1978, the jurisdictional agency authorizing the drilling of the new well must find from record evidence developed prior to the commencement of drilling that the new well was necessary to drain effectively and efficiently a portion of the reservoir covered by the proration unit, which could not be drained effectively and efficiently by an existing well located on the unit. 18 CFR 271.305(c).

The information accompanying the determination by Louisiana indicates the following: On May 20, 1961, a well located on a drilling unit created by Louisiana on January 24, 1961 was completed, having penetrated the so-called Norris Sand Unit. On November 21, 1966, this original designated unit well was plugged at the depth where it perforated the Norris Sand, and was recompleted in a shallower reservoir from which it then produced natural gas. Then, on December 22, 1978, surface drilling commenced for a second well—the well for which the Section 103 determination is sought—located on the same drilling unit as the original, designated unit well. The completed subject well also penetrated the Norris Sand Unit and began producing from that unit on December 30, 1978. Between the time that the original well was plugged and the subject well was completed, there was no production from the Norris Sand Unit.

This evidence suggests that the George R. Schurman Norris SUA Baker No. 2 well is within a proration unit described in Section 103(c)(3) of the NGPA. See also Section 2(8)(B) of the NGPA. Moreover, there is no indication in the record that Louisiana made the requisite findings concerning the effective and efficient draining of the existing proration unit as required by 18 CFR 271.305(c).

Thus, it appears that the record does not contain substantial evidence to support Louisiana's determination that the George R. Schurman Norris SUA Baker No. 2 well qualifies as a new, onshore production well under Section 103 of the NGPA.

Accordingly, the Commission makes a preliminary finding (pursuant to 18 CFR 275.202(a)(1)(i)) that the determination submitted by Louisiana is not supported by substantial evidence in the record on which the determination is based.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19607 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-430]

Hartford Electric Light Co.; Notice of Filing

June 18, 1979.

The filing Company submits the following:

Take Notice that on June 11, 1979, The Hartford Electric Light Company

("HELCO") tendered for filing an initial rate schedule of an exchange agreement (the "Agreement") between HELCO and Vermont Electric Power Company, Inc. ("VELCO"). The Agreement, dated as of February 24, 1978, provides for VELCO to exchange capacity in the Vermont Yankee Nuclear Power Unit located in Vernon, Vermont, for gas turbine capacity from the HELCO Units located at South Meadow Generating Station in Hartford, Connecticut.

The Agreement provides that the parties will determine prior to 12:01 a.m. of the first Saturday of each week during the Term of the Agreement whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, shall take place during that week.

HELCO will pay capacity and energy charges to VELCO in an amount equal to the kilowatts of capacity exchanged for each hour during the week that an exchange takes place times $0.0140, subject to the operation of the Vermont Yankee Unit at or above 370,000 kilowatt hours per hour. VELCO will pay HELCO's incremental cost of producing energy from the HELCO units plus a variable maintenance charge for each hour times the VELCO entitlement percentage in the HELCO units for any hours during the exchange that the HELCO units were actually operated by the New England Power Exchange (NEPEX).

HELCO and VELCO request an effective date of February 25, 1978 for the Agreement.

VELCO has filed a certificate of concurrence in this docket.

The Agreement has been executed by the VELCO and by HELCO and copies have been mailed to each of them.

HELCO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest for the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1979. Protests will be considered by the Commission in determining appropriate action 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. 79-19597 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-112]

Jersey Central Power & Light Co.; Notice of Compliance Filing

June 18, 1979.

Take notice that Jersey Central Power & Light Company on May 3, 1979 tendered for filing, pursuant to ordering paragraph E and F of the Commission's February 16, 1979 Order, a substitute rate sheet designated Third Revised Sheet No. 13, Rate RP.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before June 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19598 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-329]

Mountain Fuel Supply Co.; Application

June 13, 1979.

Take notice that on May 29, 1979, Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP79-329 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7[b]), for a certificate of public convenience and necessity authorizing the construction, commencing August 15, 1979 and ending December 31, 1980, and operation of facilities to enable it to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers thereof, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Mountain Fuel also requests in the application authorization to include facilities necessary to connect wells wholly-owned by or in which Mountain Fuel has an ownership interest.

The stated purpose of this budget-type application is to augment Mountain Fuel's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Mountain Fuel.

Mountain Fuel states that the total cost of the proposed facilities would not exceed $11,463,000 which is 3 percent of Mountain Fuel's account 101 balance, in accordance with the proposed rulemaking in Docket No. RM79-37 and that the cost of any single project would not exceed $2,500,000, and further states that these facilities would be initially financed utilizing existing corporate funds. Mountain Fuel contends that the proposed increase in single project cost from $1,500,000 to $2,500,000 is to offset the effects of inflation and increased expenses associated with the construction of necessary facilities.

Mountain Fuel asserts in the application that it requests an extended budget period, from August 15, 1979 to December 31, 1980 and a prorated annual cost limitation of $15,797,000 which corresponds to the requested lengthened period. This would enable Mountain Fuel to synchronize its budget year with its fiscal year thereby simplifying its internal budgeting and accounting procedures, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 5, 1979, 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 Mountain Fuel to appear or be represented at the hearing.

Kennth F. Plumb,

Secretary.

[FR Doc. 79-19599 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2917]

Municipal Electric Authority of Georgia; Application for Preliminary Permit

June 18, 1979.

Take notice that on March 16, 1979, the Municipal Electric Authority of Georgia filed an application for preliminary permit (Pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)–825(r)) for a proposed hydroelectric project, to be known as the Carter's Lake Project, FERC No. 2917, located on the Coosawattee River in Murray County, Georgia. The proposed project would be located on a navigable waterway of the United States and occupy, in whole or in part, lands of the United States under the control of the U.S. Army Corps of Engineers, and would use a government dam. Correspondence with the Applicant should be directed to: Mr. Donald L. Stokley, General Manager, Municipal Electric Authority of Georgia, 800 Peachtree Center—South Tower, 225 Peachtree Street, Atlanta, Georgia 30303 and Mr. L. Clifford Adams, Jr., General Counsel, 66 Luckie Street, NW.—Suite 520, Atlanta, Georgia 30303.

Purpose of Project—Electric energy produced by the project would be utilized in meeting the bulk power supply requirements of the political subdivisions served by the Applicant.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks the issuance of a preliminary permit for a period of 36 months, during which time the Applicant proposes to study the feasibility of installing hydroelectric generating units at the existing Carter's Lake Re-regulation dam of the U.S. Army Corps of Engineers. Applicant proposes to develop preliminary designs, conduct geologic explorations, collect environmental data, and prepare an application for FERC license. Applicant estimates the cost of studies under the permit would be $58,000.

Project Description—The Carter's Lake project would consist of: (1) a powerhouse, which would contain hydroelectric generating units (number, size and type to be determined in the course of the study) having a total installed capacity of approximately 4,000 kW; (2) step-up transformers; (3) approximately 0.5 mile of 12-kV transmission line to interconnect with the existing electric distribution system; and (4) appurtenant facilities. The estimated annual output of the proposed project is 11,563,200 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for license. In this instance, Applicant seeks a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If any agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before August 20, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19600 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-328]

Natural Gas Pipeline Company of America; Application

June 13, 1979.

Take notice that on May 29, 1979, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP79-328 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquistion, retention in place and operation of certain offshore compression facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has entered into long term gas purchase contracts with Chevron U.S.A. Inc. (Chevron) dated March 13, 1972, June 4, 1973, and March 15, 1977, and that pursuant to terms of the contracts neither Applicant nor Chevron is obligated to provide compression. However, Applicant feels that the installation of compression would benefit the recovery of additional volumes of dedicated gas. Consequently, Applicant proposes to acquire an interest in such facilities by a purchase agreement dated March 30, 1979. Even though Applicant is requesting authorization therein to acquire, retain and operate the offshore facilities, Chevron would provide fuel, platform space and maintain and operate the facilities.

Specifically, Applicant proposes to acquire Chevron's 100 percent interest in one 1100 horesepower compressor installed by Chevron in West Cameron Block 181 (Block 180 Field). Applicant indicates that approximately 6,100,000 Mcf of additional dedicated gas would ultimately be produced to Applicant as a result of the compression for West Cameron Block 180 Field. Applicant's

share of Chevron's cost of installation is approximately $1,100,000. Applicant also proposes to acquire from Chevron a 60 percent interest in two 1100 horsepower compressors installed by Chevron on a platform in Block 564 to compress gas from West Cameron Block 549 and 564. It is estimated that approximately 60 percent of the installation cost for the subject facilities has been allocated to Block 564 so Applicant's share totals $716,100. The remaining 40 percent of the cost of this compression installation is said to be allocated to Block 549 and Applicant filed to acquire such interest in Docket No. CP79–182. The addition of compression would result in an increase of about 10,700,000 Mcf in producible reserves attributable to Block 564.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 5, 1979, 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. 79-19602 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-327]

Natural Gas Pipeline Co. of America et al.; Application

June 13, 1979.

Take notice that on May 29, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, United Gas Pipe Line Company (United), 700 Milan, Houston, Texas 77002, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, and Transcontinental Gas Pipe Line Corporation (Transco), 2700 South Post Oak Road, Houston, Texas 77056, (Applicants), filed in Docket No. CP79–327 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of joint offshore gas gathering facilities in the High Island Area, offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants have the right to purchase natural gas attributable to reserves located in the offshore Texas High Island Blocks A–474 and A–489 areas (A–474 Field). In order to transport this additional supply of natural gas, Applicants have agreed to construct and jointly own approximately 7.9 miles of 20-inch gathering pipeline from a production platform in High Island Block A–474 to an existing valve on the High Island Offshore System (HIOS) in Block A–498, and .5 mile of 16-inch gathering pipeline from a production platform in High Island Block A–489 to a sub-sea tap on the proposed A–474 20-inch gathering pipeline.

Michigan Wisconsin would operate and maintain the proposed facilities pursuant to an operating agreement. Applicants state that the facilities would provide a daily capacity of 84,510 Mcf of gas. It is stated that this capacity is needed to receive the estimated maximum daily volumes that are expected to be available to Applicants from the High Island Block A–474 Field, offshore Texas.

Applicants indicate that the proposed facilities are designed to enable them to attach and make available to their respective onshore pipeline systems the gas reserves from the Block A–474 Field. Applicants have 100 percent of such reserves committed from various producers. First gas-well production of the Block A–474 Field reserves is expected to commence during the first quarter of 1980. Pennzoil Oil & Gas Inc. (Pennzoil), the operator of Block A–474, has requested that the pipeline facilities be completed by June 1979, in order to transport the associated casinghead gas for Applicants so that the oil production would not have to be shut-in.

Applicants estimate that the proved reserves and probable and possible potential gas supply attributable to the Block A–474 Field are approximately 94,000,000 Mcf with a corresponding maximum daily quantity of approximately 84,500 Mcf per day.

Applicants propose to commence construction of the facilities herein proposed upon receipt of authorization from the Commission and plan to have said facilities available for service by September 1, 1979.

Applicants estimate that the proposed High Island Blocks 474/489 offshore gathering facilities would cost approximately $7,962,000, which would be financed initially through revolving credit arrangements, short-term loans and from funds on hand. Permanent financing would be undertaken as part of Applicants' respective overall long-term financing programs at later dates.

It is indicated that Applicants would transport their gas pursuant to transportation agreements with HIOS to a point in West Cameron Block 167, offshore Louisiana, at which point U–T Offshore System would transport Natural's, United's and Transco's gas onshore under existing certificated transportation agreements. Michigan Wisconsin would utilize its own facilities to transport its gas onshore.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 5, 1979, 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 disignee 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 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19601 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-50]

Northwestern Public Service Co.; Application

June 18, 1979.

Take notice that on June 7, 1979, Northwestern Public Service Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act and the regulations thereunder for authorization to enter into a financing arrangement with Mercer County, North Dakota, and a separate financing arrangement with Grant County, South Dakota, pursuant to which Mercer County will issue not in excess of $8,500,000 aggregate prinicpal amount of its pollution control revenue bonds and Grant County, South Dakota will issue not in excess of $3,500,000 of its pollution control revenue bonds. The proceeds from the aforementioned financings will be transferred to the applicant and used to pay applicant's share of the cost of pollution control facilities at the Coyote I Electric Generating Plant located in Mercer County, North Dakota, and additional pollution control facilities at the Big Stone Plant located in Grant County, South Dakota. Applicant owns a 10% undivided interest in the Coyote I Electric Generating Plant and has a 32.5% ownership interest in the Big Stone Plant. The financing arrangements between the applicant and the aforementioned counties will provide for payments to be made by the applicant sufficient to enable the counties to pay the principal, premium, if any, and interest on the pollution revenue bonds when due.

The applicant is incorporated under the laws of the State of Delaware, with its principal business office at Huron, South Dakota, and is qualified to do business as a foreign corporation in the States of Iowa, Nebraska, North Dakota, and South Dakota.

Any person desiring to be heard or to protest said filing shoud file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Wahington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 6, 1979. 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. 79-19603 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-428]

Pennsylvania Power & Light Co.; New Rate Schedule Filing

June 18, 1979.

The filing Company submits the following:

Take notice that Pennsylvania Power & Light Company (PP&L), on June 8, 1979, tendered for filing a Letter Agreement dated June 4, 1979 (Letter Agreement) between PP&L and Metropolitan Edison Company, Pennsylvania Electric Company and Jersey Central Power & Light Company (GPU Companies). The Letter Agreement provides for a short-term sale of energy of up to 200 megawatts on an if and as available basis if requested by the GPU Companies. PP&L proposes an effective date as of the date of filing and requests waiver of the Commission's Notice Requirements.

The purpose of the Letter Agreement is to provide immediate assistance to GPU Companies which they require due to the recent, unfortunate accident at their Three Mile Island Nuclear Steam Electric Station (TMI). Under the Letter Agreement, the GPU Companies will purchase the above-indicated amount of energy from the combined outputs of PP&L's Martins Creek Nos. 3 and 4 oil-fired units, from week to week, until the Letter Agreement is terminated by either party upon one week's notice. The energy to be sold by PP&L will be provided *only* after the Company has used as much of its Martins Creek energy as necessary to meet the requirements of its customers and pursuant to a request by GPU Companies.

The price for all energy delivered under the Letter Agreement is established as the incremental operating costs quoted from time to time by PP&L for Martins Creek Unit Nos. 3 and 4 under Schedule 8.01(a) and (b) of the PJM Agreement. As contemplated by Schedule 8.01 of the PJM Agreement, these costs include fuel, fuel handling, fuel stock expenses, elements of operation and maintenance expenses, and start-up and no-load expenses. No investment-related costs nor element of split savings nor interchange margin will be included in the charges to GPU Companies.

PP&L requests waiver of the Commission's Regulations under the Federal Power Act, including but not limited to Section 35.13(b)(1) and (2), to the extent necessary to have this Letter Agreement performed in accordance with the intent of the parties. PP&L further submits that good cause has been shown to permit waiver of the notice provision of Section 205 of the Federal Power Act to permit the contract to be effective on the date of its filing with the Commission.

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, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1979. 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. 79-19604 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-431]

Public Service Co. of Indiana, Inc.; Filing

June 18, 1979

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. on June 11, 1979, tendered for filing pursuant to the Service Agreement between Henry County Rural Electric Membership Corporation and Public Service Company of Indiana, Inc. a Fourth Supplement Agreement.

Said Supplemental Agreement provides for the addition of a new delivery point designated as the Markleville Road delivery point. Service will commence at the delivery point sometime in the future.

A copy of the filing was served upon Henry County Rural Electric Membership Corporation.

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, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before July 9, 1979. 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 the filing are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19605 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-318]

Sea Robin Pipeline Co.; Application

June 13, 1979

Take notice that on May 21, 1979, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-318 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sales of natural gas to its two resale customers, United Gas Pipeline Company (United) and Southern Natural Gas Company (Southern), at Block 281, East Cameron Area, offshore Gulf of Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin states that it is entitled to purchase gas produced from East Cameron Block 281 as a result of an order issued by the Conservation Manager, Gulf of Mexico OCS Operations of the United States Geological Survey, whereby East Cameron Block 281 was unitized with West Cameron Blocks 532, 533 and 534 with respect to certain reservoirs. In order to take delivery of gas from East Cameron Block 281, Sea Robin plans to construct as a partner with United and Natural Gas Pipeline Company of America (Natural) a pipeline and appurtenant facilities under its FERC budget authorization. It is stated that this pipeline would extend from Platform B in East Cameron Block 281 to Stingray Pipeline Company's (Stingray) 16-inch pipeline in East Cameron Block 281.

United, Southern and Sea Robin have entered into agreements whereby Sea Robin has agreed to sell and United and Southern have agreed to purchase, the East Cameron Block 281 gas at Platform B, East Cameron Block 281. Pending the construction of facilities by Natural, United and Sea Robin, United and Southern have made arrangements with Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), whereby Tennessee would transport on a temporary basis, gas from East Cameron Block 281. Sea Robin indicates that the sale to United and Southern in the aforesaid nammer is the only practical means of transporting the East Cameron Block 281 reserves pending completion of the Block 281 facilities. Accordingly, Sea Robin is herein requesting authorization to designate Platform B, East Cameron Block 281, as a temporary delivery point under its Rate Schedules X-1 and X-2.

It is stated that upon completion of the facilities being constructed by Natural, United and Sea Robin, the temporary sale to United and Southern would cease. The subject gas would be transported for Sea Robin by United and Natural and the temporary sales delivery point at East Cameron Block 281 would no longer be required by Sea Robin. Sea Robin therefore, requests only authorization for a short-term sale of gas to United and Southern at Platform B, East Cameron Block 281.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 5, 1979, 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 of (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 intervent 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 Naturral Gas Act and the Commission's Rule of Practice and Procedure, a hearing will be held withour 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. 79-19606 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-36]

Shell Oil Co.; Preliminary Finding Regarding Qualification As A New, Onshore Production Well

Issued: June 15, 1979.

On May 4, 1979, the Montana Board of Oil and Gas Conservation submitted to the Commission a notice of determination which states that eight Shell Oil Company wells [1] meet all the

[1] Sheetz 21X-29 (JD79-4390), BN 22-17 (JD79-4386), Moore 23-24 (JD79-4385), Swigart 24X-8 (JD79-4394), Carleton 13X-5 (JD79-4392), BN 21X-25 (JD79-4387), BN 33X-35 (JD79-4391), Swigart 24X-8 (JD79-4388).

requirements of the new onshore reservoir provision in section 102(c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95–621. The Commission published the notice of the determination in the Federal Register on May 29, 1979.

According to section 102(c)(1)(C)(ii) of the NGPA, a reservoir shall not qualify as a new onshore reservoir if, among other things, natural gas could have been produced in commercial quantities from such reservoir through the old well before April 20, 1977.

The records show that the Madison Reservoir was penetrated by three old wells (USA 34A–31–1, Swigart 24X–8, and BN 22–17) and produced oil in commercial quantities prior to April 20, 1977. The records further show that the Ordovician Reservoir was penetrated by two old wells (BN 21X–5 and Swigart 24X–8) and produced oil in commercial quantities prior to April 20, 1977. The casinghead gas produced from both reservoirs in conjunction with the production of oil was flared until the wells were connected to a processing facility in 1978.

Since both reservoirs were penetrated by old wells and demonstrated their capability to produce natural gas, the reservoirs are subject to the behind-the-pipe exclusion in section 102(c)(1)(C)(ii) and are not new onshore reservoirs as defined in the NGPA.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to section 275.202(a)(1)(c)) that the determination submitted by the Montana Board of Oil and Gas Conservation is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–19610 Filed 6–22–79; 8:45 am]

BILLING CODE 6450–01–M

Shenandoah Oil Corp., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas

Oil and Gas Division

FERC Control Number: JD79–4195
API Well Number: 42–105–30189
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Childress 1–1
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 1.4 MMcf.

FERC Control Number: JD79–4196
API Well Number: 42–105–30172
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Ira Carson 1–54 No. 1
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 12 MMcf.

FERC Control Number: JD79–4197
API Well Number: 42–105–30238
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Ira Carson 1–52 No. 1
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 15 MMcf.

FERC Control Number: JD79–4198
API Well Number: 42–105–30187
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Ira Carson 1–51 No. 1
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 2 MMcf.

FERC Control Number: JD79–4199
API Well Number: 42–195–30602
Section of NGPA: 103
Operator: Philcon Development Company
Well Name: Etling No. 1
Field: Shapley (Morrow)
County: Hansford
Purchaser: Northern Natural Gas Company
Volume: 252 MMcf.

FERC Control Number: JD79–4200
API Well Number: 42–165–31296
Section of NGPA: 103
Operator: Amerada Hess Corporation
Well Name: Northrup and Carr "B" No. 1
Field: Hanford
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 2 MMcf.

FERC Control Number: JD79–4201
API Well Number: 42–501–31451
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Mattie Powell A, Well No. 5
Field: Ownby (Wichita–Albany)
County: Yoakum
Purchaser: Amoco Production Company
Volume: 9 MMcf.

FERC Control Number: JD79–4202
API Well Number: 42–335–30843
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: V. T. McCabe "D" No. 7
Field: Jameson North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 89 MMcf.

FERC Control Number: JD79–4203
API Well Number: 42–475–31738
Section of NGPA: 107
Operator: Gifford, Mitchell and Wisenbaker
Well Name: Blue Jacket No. 1
Field: Shawnee
County: Ward
Purchaser: Transwestern Pipeline Company
Volume: 91 MMcf.

FERC Control Number: JD79–4204
API Well Number: 42–081–30635
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: I.A.B. Unit Well No. 405
Field: I.A.B. (Menielle Penn)
County: Coke
Purchaser: Sun Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79–4205
API Well Number: 42–195–30295
Section of NGPA: 102
Operator: H and L Operating Company
Well Name: Etling No. 1
Field: Williams (Morrow, Middle)
County: Hansford
Purchaser: Phillips Petroleum Company
Volume: 320 MMcf.

FERC Control Number: JD79–4206
API Well Number: 42–371–31865
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: John May No. 4
Field: Gomex (Wolfcamp)
County: Pecos
Purchaser: Intratex Gas Company
Volume: 292 MMcf.

FERC Control Number: JD79–4207
API Well Number: 42–371–31868
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: John May "B" No. 1
Field: Gomez (Wolfcamp)
County: Pecos
Purchaser: Intratex Gas Company
Volume: 255 MMcf.

FERC Control Number: JD79–4208
API Well Number: 42–371–32480
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: John May "B" No. 2
Field: Gomez (Wolfcamp)
County: Pecos
Purchaser: Intratex Gas Company
Volume: 17 MMcf.

FERC Control Number: JD79–4209
API Well Number: 42–165–165–30600
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfrk Unit 8602)
Field: Robertson, N (Clearfork 7100)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 45 MMcf.

FERC Control Number: JD79–4210
API Well Number: 42–103–31772
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Sand Hills Judkins Unit No. 8
Field: Sand Hills (Judkins)
County: Crane
Purchaser: El Paso Naural Gas Company
Volume: 207.0 MMcf.

FERC Control Number: JD79–4211
API Well Number: 42–173–30888
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: G. W. Currie 2–24
Field: Garden City
County: Glasscock
Purchaser: Phillips Petroleum Company
Volume: MMcf.

FERC Control Number: JD79–4212
API Well Number: 42–105–31114
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: University 13–2 I.D. 71656
Field: Ingham (Devonian)
County: Crockett
Purchaser: El Paso Natural Gas Company
Volume: MMcf.

FERC Control Number: JD79–4213
API Well Number: 42–247–30405
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Mrs. A. M. K. Bass "B" Well No. 14
Field: Kelsey, Deep (8150)
County: Jim Hogg
Purchaser: Trunkline Gas Company
Volume: 150 MMcf.

FERC Control Number: JD79–4214
API Well Number: 42–047–30336
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Santa Fe Ranch Well No. 33–D
Field: Santa Fe, East (Massive 1st 6)
County: Brooks
Purchaser: Natural Gas Pipeline Company
Volume: 113 MMcf.

FERC Control Number: JD79–4215
API Well Number: 42–047–30336
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Santa Fe Ranch Well No. 33–F 72676
Field: Santa Fe (Massive First 4)
County: Brooks
Purchaser: Natural Gas Pipeline
Volume: 220 MMcf.

FERC Control Number: JD79–4216
API Well Number: 42–047–30334
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Scott and Hopper Well No. 24
Field: Scott and Hopper (7050)
County: Brooks
Purchaser: Tennessee Gas Pipeline Company
Volume: 370 MMcf.

FERC Control Number: JD79–4217
API Well Number: 42–261–30424
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: John G. Kenedy Jr. "C" Well No. 12
Field: Mifflin (F–81)
County: Kenedy
Purchaser: Natural Gas Pipeline Company
Volume: 182 MMcf.

FERC Control Number: JD79–4218
API Well Number:
Section of NGPA: 103
Operator: Suburban Propane Gas Corporation
Well Name: Mayer Ranch Unit No. 1
Field: Mayer Ranch Canyon
County: Sutton
Purchaser: Northern Natural Gas Company
Volume: 7.50 MMcf.

FERC Control Number: JD79–4219
API Well Number: 42–081–30699
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: I. A. B. Unit, Well No. 608
Field: I. A. B. (Menielle Penn)
County: Coke
Purchaser: Sun Gas Company
Volume: 19 MMcf.

FERC Control Number: JD79–4220
API Well Number: 42–495–30983
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: M. J. Bashara No. 64
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 145 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determintions may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before July 10, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–19587 Filed 6–22–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–324]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Application

June 13, 1979

Take notice that on May 24, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79–324 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a limited term transportation service for Lowell Gas Company (Lowell), Connecticut Natural Gas Corporation (CNG), Central Hudson Gas & Electric Corporation (Central Hudson), and Orange and Rockland Utilities, Inc. (O&R) (Transportation Customers) in conjunction with a limited-term storage service proposed to be rendered for the Transportation Customers by National Fuel Gas Supply Corporation (National Fuel) in Docket No. CP79–211, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes during the 1979 summer injection period ending October 31, 1979, to receive daily volumes of natural gas from the Transportation Customers and to transport and deliver such injection volumes to National Fuel for storage by Natural Fuel for such customers. Applicant also proposes to receive daily volumes of natural gas from National Fuel and to transport and deliver such volumes to Transportation Customers during the November 1, 1979, through March 31, 1980, winter withdrawal period.

The proposed volumes to be transported and the proposed applicable receipts and delivery points are as follows:

Customer	Total storage transportation volume Mcf @ 14.73	Maximum daily injection/withdrawal transportation volume Mcf @ 14.73	Percent withdrawal transportation volume retained for fuel and use requirements	Point of receipt from/delivery to customer[2]
Lowell	[1] 2,000,000	13,333	2.62	Tewksbury, Mass.
CNG	[1] 1,000,000	6,667	2.02	Greenwich, Conn.[3]; Bloomfield, Conn.; North Bloomfield, Conn.
Central Hudson	200,000	1,333	1.57	Cedar Hill, N.Y.
O&R	[1] 1,000,000	6,667	[4] 1.08	Receipt—Pearl River, N.Y.[5]; South Ceredo, W.V.[5]; Delivery—Milford, Pa.[6]

[1] Includes any volumes remaining in storage with National Fuel as of March 31, 1979, from the preceding 1978–79 interim storage and transportation services described in Section IV below.

[2] Applicant's existing Sales Meter Station delivery point to Customer.

[3] Daily Volume Limits by delivery point are as follows: Greenwich—1,300; Bloomfield—3,467; and North Bloomfield—2,000.

[4] In addition, Applicant would retain 2.50 percent of injection transportation volumes received at South Ceredo, W.V.

[5] It is estimated that O&R would make 90 percent of its injection gas available to Applicant at Pearl River and the remaining 10 percent at South Ceredo.

[6] Applicant's existing Sales Meter Station delivery point to Columbia Gas Transmission Corporation, where Applicant would receive and deliver gas for O&R's account.

Applicant states that the proposed injection and withdrawal transportation volumes would be delivered to and received from National Fuel at the interconnection of Applicant's and National Fuel's facilities at Applicant's existing Ellisburg Sales Meter Station delivery point to National Fuel in Potter County, Pennsylvania, or from time to time, when operating conditions may require, at other mutually agreed upon existing interconnections between the facilities of Applicant and National Fuel. The proposed short term transportation services would be performed only when requested by the Transportation Customers and only when, in Applicant's sole opinion, its operating conditions permit it to render such services.

The Transportation Customers would pay Applicant for the proposed transportation service transportation rates as follows:

(a) For each Mcf of natural gas which Applicant delivers during the month to Columbia for the account of Orange & Rockland, Orange & Rockland would pay Applicant 11.88 cents per Mcf. Orange & Rockland would pay Applicant during April 1980, 11.88 cents multiplied by 90 percent of the volume, if any, by which the Total Withdrawal Transportation Volume transported and delivered by Applicant to Orange & Rockland during the withdrawal season;

(b) For each Mcf of natural gas which Applicant delivers during the month to Lowell, Lowell would pay Applicant 22.99 cents per Mcf. Lowell would pay Applicant during April 1980, 22.99 cents multiplied by 90 percent of the volume, if any, by which the Total Withdrawal Transportation Volume of 2,000,000 Mcf exceeds the total of all withdrawal transportation to Lowell during the withdrawal season;

(c) For each Mcf of natural gas which Applicant delivers during the month to Central Hudson, Central Hudson would pay to Applicant 14.47 cents per Mcf. Central Hudson would pay Applicant during April 1980, 14.47 cents multiplied by 90 percent of the volume, if any, by which the Total Withdrawal Transportation Volume of 200,000 Mcf exceeds the total of all withdrawal transportation volumes transported and delivered by Applicant to Central Hudson during the withdrawal season; and

(d) For each Mcf of natural gas which Applicant delivers during the month to Connecticut Natural, Connecticut Natural would pay to Applicant 17.37 cents per Mcf. Connecticut Natural would pay Applicant during April 1980, if any, by which the Total Withdrawal Transportation Volume of 1,000,000 Mcf exceeds the total of all Withdrawal Transportation Volumes transported and delivered by Applicant to Connecticut Natural during the Withdrawal Season.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 5, 1979, 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. 79-19611 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-331]

Trunkline Gas Co.; Application

June 13, 1979.

Take notice that on May 30, 1979, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-331 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition, retention in place and operation of 25 percent interest in two 1100 horsepower compressors installed by Chevron U.S.A. Inc. (Chevron) in West Cameron Block 534, offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to acquire Chevron's 25 percent interest in two 1100 horsepower compressors in West Cameron Block 534 and to provide fuel to operate them pursuant to the terms of a gas purchase contract dated July 30, 1976, between Chevron and Applicant, which contract was approved in Docket No. CI77-53. The other 75 percent of the gas produced from Block 534, Applicant indicates, is dedicated by Chevron to Natural Gas Pipeline Company of America (Natural), which is seeking authorization in Docket No. CP79-182 to acquire 75 percent ownership interest in such compression facilities. Applicant states that both it and Natural deliver to Stingray Pipeline System (Stingray) all gas purchased from Block 534, and that since the gas from this Block is connected to Stingray, Natural is required by the Stingray Partnership Agreement dated July 28, 1972, as amended, to assign to Applicant 25 percent of any gas production and facility cost. Applicant's 25 percent share of Chevron's cost of installation is estimated to be approximately $233,049.

Applicant asserts that without the compression provided herein the reserves in West Cameron Block 534 would be subject to drainage from production of gas in West Cameron Blocks 532 and 533, and East Cameron Block 281, thereby reducing the reserves dedicated to Applicant in West Cameron Block 534.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 5, 1979, 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. 79-19612 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-34]

Union Oil Co. of California; Preliminary Finding Regarding Qualification as a New, Onshore Production Well

Issued: June 15, 1979.

On May 2, 1979, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission a notice of determination, which states that the Union Oil Company of California CIB C6 RB VUA Laterre Co., Inc. "C" No. 11 well, API Well No. 1710920978, JD79-3449, qualifies as a new, onshore production well under Section 103 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published Louisiana's notice on May 9, 1979. The notice then was published in the Federal Register on May 17, 1979.

To qualify as a new, onshore production well under Section 103 of the NGPA, a well, among other requirements, must not be located on certain existing proration units. Section 103(c)(3) of the NGPA. Section 271.305 of our interim regulations (18 CFR 271.305) enumerates the special circumstances where a new well can be drilled on an existing proration unit and still be eligible for a Section 103 determination. For a well drilled between February 19, 1977 and December 31, 1978, the jurisdictional agency authorizing the drilling of the new well must find from record evidence developed prior to the commencement of drilling that the new well was necessary to drain effectively and efficiently a portion of the reservoir covered by the proration unit, which could not be drained effectively and efficiently by an existing well located on the unit. (18 CFR 271.305(c)).

The information accompanying the determination by Louisiana indicates the following: Although an original unit well existed for the so-called Cibicides carstensi 6 Sand Unit prior to February 19, 1977, that well never produced natural gas from the unit. Then, on March 4, 1978, drilling commenced for a second well—the well for which the Section 103 determination is sought—for the Cib. carst. 6 Sand Unit; this well began producing from the unit on May 25, 1978.

It appears that substantial evidence does not exist in the record to support a finding that the second well is not located on an existing proration unit. Nor does it appear that substantial evidence exists to support a finding that the original unit well was not capable of producing natural gas in commercial quantities. See Section 103(c)(3)(C)(ii) of the NGPA.

Thus, it appears that the Union Oil Company of California CIB C6 RB VUA Laterre Co., Inc. "C" No. 11 well is within a proration unit described in Section 103(c)(3) of the NGPA. Moreover, there is no indication in the record that Louisiana made the requisite findings concerning the effective and efficient draining of the existing proration unit as required by 18 CFR 271.305(c).

Thus, it appears that the record does not contain substantial evidence to support Louisiana's determination that the Union Oil Company of California CIB C6 RB VUA Laterre Co., Inc. "C" No. 11 well qualifies as a new, onshore production well under Section 103 of the NGPA.

Accordingly, the Commission makes a preliminary finding (pursuant to 18 CFR 271.202(a)(1)(i)) that the determination submitted by Louisiana is not supported by substantial evidence in the record on which the determination is based.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19608 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-435]

Union Electric Co.; Cancellation of Interchange Service Contract

June 18, 1979.

The filing Company submits the following:

Take notice that on June 12, 1979, Union Electric Company (UE) tendered for filing a Notice of Cancellation for the Interchange Service Contract dated July 18, 1967 between the City of Columbia, Mo. and UE.

UE states that the Interchange Service Contract was cancelled in accordance with its terms since it no longer provided an acceptable or compensatory mechanism for interconnected operations between the parties.

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, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1979. 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. 79-19613 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. E-R79-436]

Virginia Electric & Power Co.; Letter Agreement

June 18, 1979.

The filing Company submits the following:

Take notice that on June 11, 1979, Virginia Electric and Power Company (VEPCO) tendered for filing a Letter Agreement dated January 31, 1979, between itself and the City of

Washington, N.C. (the City) confirming the connection of special metering equipment.

The special metering equipment was installed, at the request of the City, to provide the City with data pulses to monitor its kW demand and kWh.

VEPCO requests that this Letter Agreement become effective as of April 24, 1979, the date of completion of the installation of the special metering equipment.

Any person desiring to be heard or to make any protests with reference to said application should on or before July 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19614 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

[Project No. 2911]

Ketchikan Public Utilities; Notice of Land Withdrawal in Alaska

Dated: June 19, 1979.

On February 28, 1979, Ketchikan Public Utilities filed Exhibit K, sheets 1 through 6, inclusive, as part of an application for license for the Swan Lake Project, designated as Project No. 2911, and located on Revillagigedo Island near the City of Ketchikan in the State of Alaska. Therefore, in accordance with the provisions of Section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the land hereinafter described, insofar as title remains in the United States, is from the date of said filing, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by this Commission or by Congress:

Copper River Meridian, Alaska

All portions of the following described subdivisions lying within 100 feet of the centerline of the transmission line as delimited on Exhibit K, sheets 1 and 2:

T. 74 S., R. 90 E. (Unsurveyed),
Sec. 13, SE¼SW¼, SW¼SE¼;
Sec. 23, SE¼SE¼;
Sec. 24, NE¼NW¼, S½NW¼, W½SW¼;
Sec. 26, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 34, NE¼NE¼, S½NE¼, NW¼SE¼.
T. 73 S., R. 91 E. (Unsurveyed),
Sec. 25, SW¼NE¼, SE¼NW¼, SW¼, N½SE¼;
Sec. 35, E½SE¼;
Sec. 36, W½NW¼, NW¼SW¼.
T. 74 S., R. 91 E. (Unsurveyed),
Sec. 17, SW¼NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼.
T. 72 S., R. 92 E. (Unsurveyed),
Sec. 19, SE¼NE¼, E½SW¼, N½SE¼;
Sec. 20, SW¼NW¼, NW¼SW¼;
Sec. 30, E½W½;
Sec. 31, SW¼NE¼, E½NW¼, W½SE¼.
T. 73 S., R. 92 E. (Unsurveyed),
Sec. 1, W½E½;
Sec. 12, W½E½;
Sec. 13, W½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 20, S½SE¼;
Sec. 21, S½SE¼;
Sec. 22, S½S½;
Sec. 23, SE¼NE¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 24, W½NW¼;
Sec. 28, NW¼NE¼, N½NW¼;
Sec. 29, N½NE¼, NW¼;
Sec. 30, SE¼NE¼, N½S½.

All portions of the following described subdivisions lying within 50 feet of the centerline of the transmission line as delimited on Exhibit K, sheet 1:

T. 74 S., R. 91 E. (Unsurveyed),
Sec. 1, NW¼NW¼;
Sec. 2, E½NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 9, NE¼SE¼, S½SE¼;
Sec. 10, N½NE¼, SW¼NE¼, S½NW¼, N½SW¼;
Sec. 11, N½NW¼;
Sec. 16, N½NE¼, SW¼NE¼, E½SW¼, NW¼SE¼;
Sec. 17, SE¼SE¼;
Sec. 18, N½N½;
Sec. 20, NE¼NE¼;
Sec. 21, N½NW¼.

All portions of the following described subdivision lying within the right-of-way depicted for the Tongass Highway as delimited on Exhibit K, sheet 6:

T. 75 S., R. 90 E. (Unsurveyed),
Sec. 3, U.S. Survey No. 3833.

All portions of the following described subdivisions lying within the project boundary as delimited on Exhibit K, sheets 3, 4, and 5:

T. 72 S., R. 92 E. (Unsurveyed),
Sec. 11, S½SE¼;
Sec. 12, W½SW¼;
Sec. 13, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 14, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 15, SE¼SW¼, SE¼;
Sec. 19, E½NE¼;
Sec. 20, N½;
Sec. 21, S½NE¼, NW¼NW¼, S½NW¼, N½SW¼, SE¼;
Sec. 22, All;
Sec. 23, NW¼, NW¼SW¼;
Sec. 27, NW¼, N½SW¼, SE¼SW¼, W½SE¼.

Note.—The aforementioned project subdivisions are described by the use of protraction diagrams based upon computations by the State of Alaska, Division of Lands.

The total area of United States lands occupied by the subject project is approximately 2,141 acres; most of which is located within the Tongass National Forest. Approximately 1 acre of U.S. land is located in the Ketchikan Exclusion Area under the jurisdiction of the Bureau of Land Management, Department of the Interior.

Copies of the aforementioned map exhibits have been transmitted to the U.S. Geological Survey, Bureau of Land Management, and Forest Service.

Kennth F. Plumb,

Secretary.

[FR Doc. 79-19678 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of March 16 Through March 23, 1979

Notice is hereby given that during the week of March 16, 1979 through March 23, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

June 18, 1979.

List of Cases Received by the Office of Hearings and Appeals

[Week of March 16 through 23, 1979]

Date	Name and location of applicant	Case No.	Type of submission
3/16/79	Chevron, U.S.A., San Francisco, California	DXE–2800, DXE–2801 and DXE–2802.	Extension of relief granted in Chevron, U.S.A. 2 DOE Par. —— (February 13, 1979), 2 DOE Par. —— (January 18, 1979) and 2 DOE Par. —— (February 2, 1979). If granted: Chevron, U.S.A. would be permitted to continue to sell the crude oil produced from Huntington Beach Field, Murphy Non-Unit, East Main Zone, and South Flank Pool, located in Orange County, California, at upper tier ceiling prices.
3/16/79	Coastal States Gas Corp., Houston, Texas	DES–0181	Request for Stay. If granted: Coastal States Gas Corp. would receive a stay of the subpena issued by Special Counsel on March 14, 1979.
3/16/79	Rex Monahan, Sterling, Colorado	DXE–2803 and DXE–2804.	Extension of relief granted in Rex Monahan, 2 DOE Par. Par. —— (December 12, 1978). If granted: Rex Monahan would be permitted to continue to sell the crude oil produced from the Collums and Springer Leases at upper tier ceiling prices.
3/16/79	Sun Company, Washington, D.C.	DST–0034	Request for Temporary Stay. If granted: Sun Company would receive a temporary stay of the provisions of 10 CFR 211.108 regarding the allocation of unleaded gasoline.
3/19/79	Louis Kahan, Tulsa, Oklahoma	DEE–2805 and DEE—2806.	Price Exception (Section 212.73). If granted: Louis Kahan would be permitted to sell the crude oil produced from the Polly "B" and Mose Bean Leases, located in Seminole County, Oklahoma, at upper tier ceiling prices.
3/19/79	Peerless Manufacturing Louisville, Kentucky	DEE–2798	Exception. If granted: Peerless Manufacturing would be granted an exception from the requirements to rent vented gas space heaters.
3/19/79	Riverdale Chevron Riverdale, Georgia	DEX–0148	Supplemental Order. If granted: The DOE would stay the effect of certain provisions of 10 CFR Part 211.
3/19/79	UCO Oil Company, Whittier, California	DEH–0062	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to the Statement of Objections of UCO Oil Company in response to a Proposed Decision and Order (Case No. DPI–0014).
3/20/79	City of Long Beach, California, Long Beach, California.	DXE–2807	Extension of relief granted in *City of Long Beach, California* 2 DOE Par. —— (November 20, 1978). If granted: The City of Long Beach, California would be permitted to continue to sell the crude oil produced from the Wilmington Oil Field located in Los Angeles County at upper tier ceiling prices.
3/20/79	Coastal States Gas Corporation, Houston, Texas	DSG–0049	Petition for Special Redress. If granted: Coastal States Gas Corporation, to whom the Proposed Remedial Order was issued, would be the only aggrieved party permitted to participate in the objection proceeding.
3/20/79	Gulf Oil Corporation, Tulsa, Oklahoma	DXE–2809	Extension of relief granted in *Gulf Oil Corporation*, 2 DOE Par. —— (November 30, 1978). If granted: Gulf Oil Corporation would be permitted to continue to sell the crude oil produced from the Kiefer Unit located in Creek County, Oklahoma at upper tier ceiling prices.
3/20/79	Memphis Aero Corporation, Washington, D.C	DEE–2810, DES–2810 and DST–2810.	Exception to the Provisions of a Remedial Order, Request for Stay and Temporary Stay. If granted: Memphis Aero Corporation would receive an exception and Temporary Stay to the provisions of the March 16, 1979 Remedial Order. The firm would receive a stay pending a final determination of its Application for Exception.
3/21/79	AMOCO Oil Company, Chicago, Illinois	DEE–2817, DES–2817 and DST–2817.	Exception to Reporting Requirements, Request for Temporary Stay and Stay. If granted: AMOCO Oil Company would receive an exception to the reporting requirements and would no longer be required to file EIA–28. The firm would receive a temporary stay of the requirements pending a final determination on its Application for Exception.
3/21/79	Coastal States Gas Corp., Washington, D.C.	DFA–0349	Appeal of Information Request Denial. If granted: The DOE's March 7, 1979 Information Request Denial would be rescinded and Coastal States Gas Corporation would receive access to certain DOE documents.
3/21/79	Gulf Oil Corporation, Houston, Texas	DXE–2815	Extension of relief granted in *Gulf Oil Corporation*, 2 DOE Par. —— (November 22, 1978). If granted: Gulf Oil Corporation would be permitted to continue to sell the crude oil produced from the Mattie White "C" Lease at upper tier ceiling prices.
3/21/79	Miller, Anderson, Nash & Wiener, Portland, Oregon	DFA–0348	Appeal of Information Request Denial. If granted: The DOE's March 8, 1979 Information Request Denial would be rescinded and Miller, Anderson, Nash, Yerke & Wiener would receive access to certain DOE documents.
3/21/79	Pacific Resources, Inc., Honolulu, Hawaii	DEE–2811	Exception to Transfer Refinery Property. If granted: Pacific Resoures, Inc. would be permitted to transfer refinery property.
3/22/79	Energy Cooperatives, Inc., Washington, D.C.	DEE–2816	Exception to the Provisions of 10 CFR 211.65. If granted: Energy Cooperatives, Inc. would receive an exception to the provisions of 10 CFR 211.65, with respect to the Buy/Sell Program.
3/22/79	Getty Oil Co., Oklahoma City, Oklahoma	DXE–2916	Extension of relief granted in *Getty Oil Company*, 2 DOE Par —— (September 27, 1978). If granted: Getty Oil Company would be permitted to continue to sell the crude oil produced from the Ed Dillion No. 2 Well, located in Oklahoma County, Oklahoma, at upper tier ceiling prices.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of March 16 through 23, 1979]

Date	Name and location of applicant	Case No.	Type of submission
3/22/79	Husky Oil Company, Sayre, Oklahoma	DEA-0356	Appeal of an Assignment Order. If granted: The March 8, 1979 Assignment Order issued by DOE's Region VIII office would be rescinded and Husky Oil Company would not be required to supply E-Z Shop, Inc.
3/22/79	Mobil Oil Corporation, Kansas City, Missouri	DES-0195	Request for Stay. If granted: The March 15, 1979, Assignment Order issued by Region VII would be stayed and Mobil Oil Corporation would not be required to supply Highway Oil, Inc.
3/22/79	Texaco, Inc., White Plains, New York	DEA-0350 and DES-0196.	Appeal of a Decision and Order by ERA, Application for Stay. If granted: The DOE's February 21, 1979, Decision and Order, by the Economic Regulatory Administration would be mofified and Texaco, Inc. would be required to sell crude oil to CRA, Inc. A stay would be granted pending a final determination on its Appeal.
3/22/79	Texaco, Inc., New Orleans, Louisiana	DXE-2917	Extension of relief granted in *Texaco, Inc.*, 2 DOE Par. —— (December 1, 1978). If granted: Texaco, Inc. would be permitted to continue to sell the crude oil produced from the Reno Ra Su Bayou Fordoche Field located in Pointe Coupee Parish, Louisiana at upper tier ceiling prices.
3/22/79	Triangle J Oil Company, Boulder, Colorado	DEE-3141	Price Exception (212.73). If granted: Triangle J Oil Company would be permitted to sell the crude oil produced from the State Lease, located in Washington County, Colorado, at upper tier ceiling prices.
3/23/79	Powerine Oil Company, Los Angeles, California	DEE-2878 and DES-2878.	Price Exception (212.93) and Request for Stay. If granted: Powerine Oil Company would be granted a stay of Regional Pricing Exception to the Equal Application Rule (10 CFR 212.93(h)), and an exception from the price regulations.

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LIST OF CASES INVOLVING THE STANDBY PETROLEUM PRODUCT ALLOCATION REGULATIONS FOR MOTOR GASOLINE

WEEK OF MARCH 16 THROUGH MARCH 23, 1979

IF GRANTED: THE FOLLOWING FIRMS WOULD RECIEVE AN EXCEPTION FROM THE ACTIVATION OF THE STANDBY PETROLEUM PRODUCT ALLOCATION REGULATIONS WITH RESPECT TO MOTOR GASOLINE.

03/16/79

BIG K OIL COMPANY, INC.	DEE-2898	03/16/79	MISSISSIPPI
BROWNFIELD OIL COMPANY, INC.	DEE-2605	03/16/79	MISSOURI
BRUCKER SERVICE STATION	DEE-2485	03/16/79	TEXAS
BUTLER, ROLAND	DEE-2615	03/16/79	DISTRICT OF COLUMBI
CIRCLE S SERVICE	DEE-2531	03/16/79	MONTANA
CONSTAN	DEE-2613	03/16/79	SOUTH CAROLINA
CRITES, KEN	DEE-2603	03/16/79	MISSOURI
ED ALEXANDER OIL COMPANY, INC.	DEE-2612	03/16/79	MICHIGAN
EMPIRE PETROLEUM, INC.	DEE-2899	03/16/79	NORTH CAROLINA
HUNGERFORD DRIVE EXXON, INC.	DEE-2581	03/16/79	MARYLAND
JOHN E. JONES OIL COMPANY	DEE-2766	03/16/79	KANSAS
LOCO, INC.	DEE-2770	03/16/79	COLORADO
MARBLEHEAD SERVICES, INC.	DEE-2471	03/16/79	MASSACHUSETTS
MAVERICK GAS	DEE-2577	03/16/79	MONTANA
MELVIN GROVER MOTOR COMPANY	DEE-2486	03/16/79	MONTANA
MOLO OIL COMPANY	DEE-2601	03/16/79	IOWA
MOOR, HOWARD	DEE-2604	03/16/79	MISSOURI
PETROLEUM WHOLESALE, INC.	DEE-2568	03/16/79	MISSOURI
ROBERT H. HART & SONS, INC.	DEE-2479	03/16/79	FLORIDA
SMOKE RISE CHEVRON	DEE-2602	03/16/79	GEORGIA
TOWN & COUNTRY OIL COMPANY	DEE-2793	03/16/79	KANSAS
TRANS OIL CO., INC.	DEE-6309	03/16/79	GEORGIA
VIRGINIA FOREST EXXON	DEE-2606	03/16/79	VIRGINIA
VOGELGESANG'S TRAVEL CENTER	DEE-2616	03/16/79	MISSOURI
WILLIAMS, H.S., JR.	DEE-2618	03/16/79	GEORGIA
WOODSON TERRACE MOBIL	DEE-2617	03/16/79	MISSOURI

03/19/79

"J" OIL, INC.	DEE-2594	03/19/79	COLORADO
AMTEL, INC.	DEE-2573	03/19/79	TEXAS
BENNETT'S COBRA OIL COMPANY	DEE-2660	03/19/79	FLORIDA
BRADLEE TEXACO	DEE-2662	03/19/79	VIRGINIA
BULL CITY OIL COMPANY, INC.	DEE-2592	03/19/79	NORTH CAROLINA
CARUTHERS OIL COMPANY, INC.	DEE-2571	03/19/79	TEXAS
CLEMENTS OIL COMPANY	DEE-2589	03/19/79	WEST VIRGINIA
COUNTRY CLUB TEXACO	DEE-2666	03/19/79	MARYLAND
DAUPHIN OIL COMPANY	DEE-2704	03/19/79	COLORADO
EASTERN SHORE OIL COMPANY	DEE-2670	03/19/79	MARYLAND
FAREL LITTLE OIL COMPANY, INC.	DEE-2627	03/19/79	TEXAS
FAUST AUTO SERVICE, INC.	DEE-2561	03/19/79	MARYLAND
FINN OIL COMPANY	DEE-2620	03/19/79	MICHIGAN
FOLEY OIL COMPANY	DEE-2591	03/19/79	NEBRASKA
GENE SANDERS SERVICE, INC.	DEE-2578	03/19/79	MISSOURI
GENERAL MOTORS CORPORATION	DEE-2569	03/19/79	MICHIGAN
GLOVER OIL COMPANY, INC.	DEE-2563	03/19/79	FLORIDA
H & H MANHATTAN SHELL, INC.	DEE-3150	03/19/79	NEW YORK
H.H. WHITE OIL COMPANY	DEE-2560	03/19/79	MISSOURI
HASSAN'S "66" SERVICE STATION	DEE-2583	03/19/79	FLORIDA
HAYTER OIL COMPANY, INC.	DEE-2590	03/19/79	TENNESSEE
HUBBARD OIL CORPORATION	DEE-2570	03/19/79	TEXAS
HUDSON, JOHN C.	DEE-2681	03/19/79	VIRGINIA
HUNTLEY JIFFY STORES	DEE-2532	03/19/79	FLORIDA
I-96 & GRAND RIVER SHELL	DEE-3218	03/19/79	MICHIGAN
J.F. HALL OIL COMPANY, INC.	DEE-3727	03/19/79	TEXAS
JERRY'S EXXON	DEE-2680	03/19/79	PENNSYLVANIA
JONES, C.C.	DEE-2564	03/19/79	TEXAS
KENWOOD CITGO STATION	DEE-2582	03/19/79	MARYLAND
LAKE WRIGHT TEXACO	DEE-2685	03/19/79	VIRGINIA
LE FEVRE OIL & TIRE, INC.	DEE-2600	03/19/79	WISCONSIN
MASTER GULF SERVICE	DEE-2688	03/19/79	NORTH CAROLINA
MCKINNEY OIL COMPANY	DEE-2572	03/19/79	TEXAS
MCQUEENEY'S EXXON	DEE-2686	03/19/79	MARYLAND
MEREDITH & TATE, INC.	DEE-2565	03/19/79	VIRGINIA
MOE'S TEXACO	DEE-2690	03/19/79	VIRGINIA
MOHOLTZ ARCO	DEE-2687	03/19/79	PENNSYLVANIA
MONFORT HEIGHTS EXXON	DEE-2623	03/19/79	OHIO
MOUNTAIN OIL, INC.	DEE-2628	03/19/79	NORTH CAROLINA
MUTUAL OIL COMPANY	DEE-2576	03/19/79	SOUTH CAROLINA
ORTH OIL, INC.	DEE-2597	03/19/79	MICHIGAN
P & B PETROLEUM COMPANY	DEE-2651	03/19/79	GEORGIA
POP SHOPPE TEXACO	DEE-2692	03/19/79	VIRGINIA
PRIDE PETROLEUM COMPANY, INC.	DEE-2599	03/19/79	ILLINOIS
R & G OIL COMPANY	DEE-2695	03/19/79	MICHIGAN
R.J. OIL COMPANY, INC.	DEE-2588	03/19/79	INDIANA
RADCLIFFE OIL COMPANY	DEE-2593	03/19/79	INDIANA
RAZNEGI TEXACO	DEE-2719	03/19/79	VIRGINIA
RECTOR OIL COMPANY, INC.	DEE-2652	03/19/79	VIRGINIA
RED CLAY CREEK EXXON	DEE-2720	03/19/79	DELEWARE
REYNOLDS OIL COMPANY	DEE-2619	03/19/79	COLORADO
RICHARDS OIL COMPANY	DEE-2654	03/19/79	NORTH CAROLINA
ROGER L. BURGESS GETTY SERVICE	DEE-2622	03/19/79	PENNSYLVANIA
ROSEMONT EXXON	DEE-2698	03/19/79	PENNSYLVANIA
ROWDEN OIL COMPANY	DEE-2699	03/19/79	TENNESSEE
RUSSELL PETROLEUM, INC.	DEE-2618	03/19/79	NORTH CAROLINA
RYBAK OIL COMPANY	DEE-2598	03/19/79	WISCONSIN
SCOVILLE LEASING & RENTAL, INC	DEE-2701	03/19/79	NEW YORK
SPOONER OIL COMPANY	DEE-2703	03/19/79	MICHIGAN
STAHL, PAUL	DEE-2895	03/19/79	CALIFORNIA
STEVE'S EXXON	DEE-2704	03/19/79	PENNSYLVANIA
STEVE'S GULF SERVICE	DEE-2574	03/19/79	NORTH CAROLINA
THOMPSON'S TEXACO	DEE-2706	03/19/79	DISTRICT OF COLUMBI
TUCSON FUEL COMPANY, INC.	DEE-2557	03/19/79	CALIFORNIA
UNIVERSAL CAR WASH #2	DEE-2795	03/19/79	MICHIGAN
VAUGHN OIL COMPANY	DEE-2920	03/19/79	TENNESSEE
W-D OIL COMPANY	DEE-2585	03/19/79	ILLINOIS
WADDELL OIL COMPANY	DEE-2714	03/19/79	MINNESOTA
WEBSTER'S SELF SERVICE GULF	DEE-2575	03/19/79	MISSISSIPPI
WELTON OIL SERVICE	DEE-2586	03/19/79	KANSAS
WESCO FUELS, INC.	DEE-2584	03/19/79	WEST VIRGINIA
WEST TAFT STREET EXXON SERVICE	DEE-2587	03/19/79	FLORIDA
WESTERN BLVD. EXXON	DEE-2716	03/19/79	NORTH CAROLINA
WHITFIELD OIL COMPANY	DEE-2621	03/19/79	GEORGIA
WIDMAN, JOSHUA	DEE-2562	03/19/79	NEW YORK

03/20/79

ACKER OIL COMPANY	DEE-2658	03/20/79	MICHIGAN
ALDEN OIL COMPANY	DEE-2558	03/20/79	MINNESOTA
ALPENA OIL COMPANY	DEE-2641	03/20/79	MICHIGAN
AMARILLO 76 TRUCK STOP, INC.	DEE-2920	03/20/79	TEXAS
AMBLE OIL COMPANY	DEE-2640	03/20/79	MISSISSIPPI
ATKINSON'S	DEE-2659	03/20/79	MISSOURI
BECKER PETROLEUM COMPANY, INC.	DEE-2642	03/20/79	WISCONSIN
BEST-WAY MARKETING	DEE-2608	03/20/79	OKLAHOMA
BIG GULF SERVICE STATION	DEE-2661	03/20/79	GEORGIA
BROADWAY STANDARD SERVICE	DEE-2664	03/20/79	WISCONSIN
BROCK OIL COMPANY, INC.	DEE-2643	03/20/79	ILLINOIS
BUCHANNON OIL COMPANY	DEE-2663	03/20/79	VIRGINIA
C. PARKER OIL COMPANY	DEE-2644	03/20/79	NORTH CAROLINA
CARL M. SCHULTZ, INC.	DEE-2631	03/20/79	MICHIGAN
CLIFTON AMERICAN	DEE-2645	03/20/79	MARYLAND
COMMUNICATIONS SERVICE COMPANY	DEE-2665	03/20/79	COLORADO
CROSSROADS GULF SERVICE STAT.	DEE-2646	03/20/79	VIRGINIA
D & D MOBIL SERVICE	DEE-2668	03/20/79	CALIFORNIA
D & D OIL COMPANY	DEE-2667	03/20/79	GEORGIA
DAIGLE OIL COMPANY	DEE-2647	03/20/79	MAINE
DALE AUTO SALES, INC.	DEE-2648	03/20/79	NEW YORK
DUQUETTE SERVICE STATIONS, INC	DEE-2669	03/20/79	MASSACHUSETTS
E.T. LAWSON & SON, INC.	DEE-2626	03/20/79	VIRGINIA
EASTPORT FOODS	DEE-2671	03/20/79	MICHIGAN
EMBREY'S MOBIL SERVICE	DEE-2672	03/20/79	MARYLAND
FARGO OIL COMPANY	DEE-2909	03/20/79	NEW JERSEY
FRANK MOODY'S MOBIL STATION	DEE-2635	03/20/79	MINNESOTA
GARDNER-CREECH OIL COMPANY	DEE-2674	03/20/79	NORTH CAROLINA
GENERAL STORE	DEE-2673	03/20/79	MICHIGAN
GEORGE L. RALPH, INC.	DEE-2636	03/20/79	MARYLAND
GREITEN'S STANDARD	DEE-2675	03/20/79	WISCONSIN
GUARANTEE OIL COMPANY	DEE-2580	03/20/79	INDIANA
HARDELL CORPORATION	DEE-2579	03/20/79	MARYLAND
HAUCK SERVICE STATIONS	DEE-2676	03/20/79	ILLINOIS
HENRICHS, J.	DEE-2677	03/20/79	WISCONSIN
HERNDON MOBIL	DEE-2607	03/20/79	VIRGINIA
HILLANDALE SHELL	DEE-2678	03/20/79	MARYLAND
HILLSVILLE TIRE & GULF SERVICE	DEE-2521	03/20/79	VIRGINIA
HOWARD'S EXXON	DEE-2691	03/20/79	FLORIDA
HOWIE'S OIL, INC. --	DEE-2767	03/20/79	MINNESOTA
IRV'S SERVICE CENTER	DEE-2624	03/20/79	LOUISIANA
IRVINE SERVICE	DEE-2679	03/20/79	MICHIGAN
JON RAY OIL COMPANY	DEE-2923	03/20/79	ARIZONA
JUBILEE OIL COMPANY	DEE-2625	03/20/79	ILLINOIS
KEN SUTHERLAND GAS & OIL, INC.	DEE-2764	03/20/79	MICHIGAN
KIMMICK OIL COMPANY	DEE-2634	03/20/79	COLORADO
LADURINI OIL COMPANY	DEE-2650	03/20/79	COLORADO
LAW, WILLIAM	DEE-2682	03/20/79	FLORIDA
LINDSEY OIL COMPANY, INC.	DEE-2559	03/20/79	SOUTH CAROLINA
LONG, LOUIS H.	DEE-2610	03/20/79	SOUTH DAKOTA
LUTWYCHE'S SHELL	DEE-2683	03/20/79	MARYLAND
LYON OIL COMPANY	DEE-2684	03/20/79	WEST VIRGINIA
MARICLE, LUVERN L.	DEE-2689	03/20/79	MINNESOTA
NEW FIVE SHELL	DEE-2566	03/20/79	MICHIGAN
OLE TOLL SHELL	DEE-2567	03/20/79	MICHIGAN
PISMO CHEVRON	DEE-2639	03/20/79	CALIFORNIA
PORT OIL COMPANY, INC.	DEE-2867	03/20/79	ALABAMA
PULASKI EXXON	DEE-2693	03/20/79	MARYLAND
QUAIL VALLEY CAR CARE CENTER	DEE-2694	03/20/79	TEXAS
RAEFORD OIL COMPANY, INC.	DEE-2629	03/20/79	NORTH CAROLINA
RAY ROBINSON OIL COMPANY	DEE-2630	03/20/79	OKLAHOMA
RICE OIL COMPANY	DEE-2696	03/20/79	MASSACHUSETTS
RITCO COMPANY	DEE-2653	03/20/79	TEXAS
ROCKET OIL COMPANY	DEE-2637	03/20/79	KENTUCKY
ROCKFORD OIL COMPANY	DEE-2697	03/20/79	ILLINOIS
ROYAL FARM DAIRY	DEE-2700	03/20/79	COLORADO
RYAN OIL COMPANY	DEE-2922	03/20/79	ARIZONA
SAAK, ROBERT F.	DEE-2655	03/20/79	MISSOURI
SAV-MOR OIL COMPANY	DEE-3170	03/20/79	CALIFORNIA
SEIBT SHELL SERVICE	DEE-2632	03/20/79	MICHIGAN
SILCO OIL COMPANY	DEE-2702	03/20/79	COLORADO
SING BROTHERS	DEE-2765	03/20/79	GEORGIA
SUNSET OIL COMPANY, LTD.	DEE-2609	03/20/79	WISCONSIN
THELEN OIL COMPANY	DEE-2657	03/20/79	MINNESOTA
THOMAS & HORNE OIL COMPANY	DEE-2705	03/20/79	NORTH CAROLINA
TIME OIL COMPANY	DEE-2638	03/20/79	CALIFORNIA
TLOUGAN OIL COMPANY	DEE-2611	03/20/79	MINNESOTA
TOM'S EXXON	DEE-2708	03/20/79	FLORIDA
TOMMY'S ONE STOP	DEE-2709	03/20/79	ALABAMA
TRIDELPHIA DISTRIBUTING CO.	DEE-2710	03/20/79	WEST VIRGINIA
TURCO SUPER-TEST CORPORATION	DEE-2633	03/20/79	FLORIDA
V.V. BEROTH OIL COMPANY, INC.	DEE-2711	03/20/79	NORTH CAROLINA
VALLEY VIEW CONOCO	DEE-2656	03/20/79	COLORADO
VANSTORY OIL COMPANY	DEE-2713	03/20/79	NORTH CAROLINA
VILES OIL COMPANY	DEE-2712	03/20/79	MISSOURI
W. GORDON SMITH COMPANY	DEE-2707	03/20/79	MINNESOTA
WALLY HUNTER OIL COMPANY	DEE-2715	03/20/79	ILLINOIS
WHEELER, GARY	DEE-2717	03/20/79	WASHINGTON
WILD GAS & OIL	DEE-2718	03/20/79	PENNSYLVANIA
WISCONSIN INDUSTRIAL FUEL OIL	DEE-3152	03/20/79	WISCONSIN
WOLF'S EXXON SERVICENTER	DEE-2907	03/20/79	NEW YORK
WOOD, F.M.	DEE-2649	03/20/79	SOUTH CAROLINA

03/21/79

ALAMO EXPRESSWAY SERVICE STAT.	DEE-2750	03/21/79	TEXAS
ANDERSON, KIRKLAND C.	DEE-2754	03/21/79	MINNESOTA
BALLANCE OIL COMPANY	DEE-2751	03/21/79	KENTUCKY
BARIELLE OIL COMPANY, INC.	DEE-2738	03/21/79	LOUISIANA
BINGO EXXON	DEE-2726	03/21/79	ALABAMA
BLACKWELL OIL COMPANY, INC.	DEE-2739	03/21/79	COLORADO
BOB MARTIN'S SHELL SERVICE	DEE-2773	03/21/79	CALIFORNIA
BOB'S VINTAGE TEXACO	DEE-2772	03/21/79	CALIFORNIA
BROCK, JERRY	DEE-2771	03/21/79	CALIFORNIA
BURNSVILLE CROSSTOWN MOBIL	DEE-2775	03/21/79	MINNESOTA
C.J. ENTERPRISES, INC.	DEE-2729	03/21/79	MASSACHUSETTS
CAMPBELL OIL COMPANY, INC.	DEE-2727	03/21/79	OKLAHOMA
COLEMAN'S SERVICE	DEE-2728	03/21/79	MINNESOTA
CORVO'S SERVICE STATION	DEE-2730	03/21/79	PENNSYLVANIA
CREEKSIDE MARKET	DEE-2785	03/21/79	PENNSYLVANIA
CURTI OIL COMPANY	DEE-2752	03/21/79	TEXAS
D.C. CURL	DEE-2911	03/21/79	TEXAS
DENNIS R. O'HARA	DEE-2906	03/21/79	COLORADO
EDWARD H. HOLT & SONS, INC.	DEE-2913	03/21/79	WISCONSIN
ENERGY OIL COMPANY	DEE-2753	03/21/79	MICHIGAN

EUREKA FUEL COMPANY	DEE-2755	03/21/79	CALIFORNIA
FISCHER SHELL SERVICE	DEE-2756	03/21/79	MICHIGAN
FRED'S CONOCO SERVICE	DEE-2769	03/21/79	COLORADO
FURTADO'S GARAGE	DEE-2783	03/21/79	MASSACHUSETTS
GARY OIL COMPANY	DEE-2757	03/21/79	MICHIGAN
GRAND RIVER SHELL OF HOWELL	DEE-2596	03/21/79	LOUISIANA
GREENBELT OIL COMPANY	DEE-2908	03/21/79	TEXAS
HALE PETROLEUM COMPANY	DEE-2731	03/21/79	KANSAS
HAMPTON PARK EXXON	DEE-2732	03/21/79	SOUTH CAROLINA
HENDERSON OIL COMPANY, INC.	DEE-2845	03/21/79	NORTH CAROLINA
HERBST SUPPLY COMPANY	DEE-2740	03/21/79	NEVADA
HONDO OIL COMPANY, INC.	DEE-2782	03/21/79	CALIFORNIA
HUNTER'S LODGE EXXON	DEE-3713	03/21/79	TEXAS
HURON SHELL SERVICE	DEE-2882	03/21/79	MICHIGAN
IOWA OIL COMPANY	DEE-2776	03/21/79	IOWA
ISAAC'S CHEVRON	DEE-2741	03/21/79	CALIFORNIA
ISLAND "66" SERVICE	DEE-2721	03/21/79	FLORIDA
JACK'S CARBURETOR & ELECTRIC	DEE-2768	03/21/79	CONNECTICUT
JAMES OIL COMPANY, INC.	DEE-2912	03/21/79	COLORADO
K & N PETROLEUM, INC.	DEE-2778	03/21/79	WASHINGTON
KELLEY FUELS, INC.	DEE-2763	03/21/79	MINNESOTA
L & L OIL COMPANY, INC.	DEE-2724	03/21/79	FLORIDA
LOXTERCAMP OIL COMPANY	DEE-2789	03/21/79	MINNESOTA
MALAN OIL COMPANY	DEE-2818	03/21/79	MISSOURI
MARSHALL OIL COMPANY	DEE-2742	03/21/79	NORTH CAROLINA
MATTHEWS EXXON	DEE-2456	03/21/79	NORTH CAROLINA
MCDONALD, LARRY	DEE-2781	03/21/79	CALIFORNIA
MID-STATE OILS, INC.	DEE-2759	03/21/79	TENNESSEE
MIKE ROSE OIL COMPANY	DEE-2733	03/21/79	TENNESSEE
MISTER FLOWERS, INC.	DEE-2777	03/21/79	NEW JERSEY
MOJAVE PETROLEUM COMPANY	DEE-2743	03/21/79	TEXAS
N.A. DUNN, INC.	DEE-2784	03/21/79	NORTH CAROLINA
NORTHLAND OIL COMPANY	DEE-2744	03/21/79	MINNESOTA
NU-WAY OIL COMPANY	DEE-2796	03/21/79	TEXAS
PENGUIN OIL COMPANY	DEE-2774	03/21/79	MISSOURI
PERRONE OIL COMPANY	DEE-2758	03/21/79	TEXAS
PLEASANT LAKE SHELL	DEE-3370	03/21/79	MICHIGAN
POWER OIL COMPANY, INC.	DEE-2791	03/21/79	SOUTH CAROLINA
PRAIRIE OIL COMPANY	DEE-2760	03/21/79	MINNESOTA
PRO SALES, INC.	DEE-2914	03/21/79	OREGON
PURE WATER & GAS COMPANY, INC.	DEE-2747	03/21/79	GEORGIA
RAIN TREE CAR WASH	DEE-2745	03/21/79	CALIFORNIA
RITE-WAY, INC.	DEE-2780	03/21/79	CONNECTICUT
RODE, HUBERT G., JR.	DEE-2788	03/21/79	MINNESOTA
SEA WORLD	DEE-2792	03/21/79	FLORIDA
SEVEN-ELEVEN FOOD STORES	DEE-2722	03/21/79	MISSOURI
SILVER OIL COMPANY, INC.	DEE-2734	03/21/79	OHIO
SMITH-SHAFER OIL COMPANY	DEE-2910	03/21/79	ILLINOIS
SPARKLE CAR WASH	DEE-2761	03/21/79	CALIFORNIA
STADLER, LARRY E.	DEE-2746	03/21/79	NORTH CAROLINA
SUMTER OIL & GAS COMPANY, INC.	DEE-2725	03/21/79	SOUTH CAROLINA
TRI-TON, INC.	DEE-2723	03/21/79	GEORGIA
TYPHOON CAR WASHES	DEE-2790	03/21/79	MINNESOTA
VAN DRISSE OIL COMPANY	DEE-2737	03/21/79	WISCONSIN
VISCOSITY OIL COMPANY	DEE-2735	03/21/79	MISSOURI
W.A. EGAN COMPANY	DEE-2736	03/21/79	MINNESOTA
WEST SIDE DISTRIBUTING COMPANY	DEE-2749	03/21/79	MINNESOTA
WIEGAND OIL COMPANY, INC.	DEE-2779	03/21/79	WISCONSIN
WILEMON OIL COMPANY	DEE-2748	03/21/79	OKLAHOMA
WILSON SHELL SERVICE	DEE-2786	03/21/79	CALIFORNIA

03/22/79

AL'S AUTO SERVICE	DEE-2842	03/22/79	MICHIGAN
ANDERSON'S EXXON	DEE-2848	03/22/79	MARYLAND
AWARD PETROLEUM	DEE-2820	03/22/79	NEW YORK
BUREK OIL COMPANY	DEE-2891	03/22/79	MASSACHUSETTS
CHECKER CAB COMPANY	DEE-2847	03/22/79	NEVADA
CITY SERVICE CENTER	DEE-2849	03/22/79	MONTANA
CLAYTON OIL COMPANY	DEE-2921	03/22/79	NORTH CAROLINA
COLBURNS SHELL SERVICE	DEE-2762	03/22/79	MISSOURI
D & D SHELL OIL COMPANY	DEE-2880	03/22/79	MICHIGAN
DEGROOD BULK OIL	DEE-2827	03/22/79	MINNESOTA
DU-COR SERVICE STATION	DEE-2828	03/22/79	NEW YORK
EASTVIEW SERVICE	DEE-2819	03/22/79	MINNESOTA
ELLIS BURNS EXXON	DEE-2852	03/22/79	ALABAMA
FISHER, WILLIAM LINZY	DEE-2853	03/22/79	INDIANA
FONTANA SERVICE CENTER, INC.	DEE-2854	03/22/79	OKLAHOMA
FRASER SALES, INC.	DEE-2855	03/22/79	MASSACHUSETTS
G&C GROCERY & STANDARD OIL CO.	DEE-2841	03/22/79	MICHIGAN
GETTY REFINING & MARKETING CO.	DEE-2905	03/22/79	OKLAHOMA
GREEN SPRING CHEVRON	DEE-2873	03/22/79	ALABAMA
HANSON, AL	DEE-2821	03/22/79	MINNESOTA
HOLSTON OIL, INC.	DEE-2856	03/22/79	TENNESSEE
J & J OIL COMPANY, INC.	DEE-2844	03/22/79	NORTH CAROLINA
J.H. KASPAR OIL COMPANY	DEE-2829	03/22/79	WYOMING
KENNY'S FOOD MARKETS	DEE-2892	03/22/79	MASSACHUSETTS
KERR OIL COMPANY	DEE-2822	03/22/79	IDAHO
LANCE OIL COMPANY	DEE-2859	03/22/79	GEORGIA
LINCOLN OIL SERVICE	DEE-2868	03/22/79	ILLINOIS
LIPSCOMB OIL COMPANY	DEE-2858	03/22/79	MISSISSIPPI
MACMILLAN OIL COMPANY	DEE-2885	03/22/79	FLORIDA
MAGNOLIA EXXON	DEE-2861	03/22/79	SOUTH CAROLINA
MARION PETROLEUM DISTRIBUTORS	DEE-2843	03/22/79	FLORIDA
MCMAHON OIL COMPANY	DEE-2904	03/22/79	TEXAS
MEADOWS CHEVRON	DEE-2877	03/22/79	GEORGIA
MINI-MARKETS, INC.	DEE-2860	03/22/79	LOUISIANA
MOBIL BULK PLANT	DEE-2825	03/22/79	MINNESOTA
MOODY OIL COMPANY	DEE-2831	03/22/79	FLORIDA
NORMAN'S MOBIL	DEE-2872	03/22/79	TEXAS
NORTH STOP, INC.	DEE-2830	03/22/79	MINNESOTA
PALM COAST	DEE-2864	03/22/79	FLORIDA
PARKER DISTRIBUTING COMPANY	DEE-2865	03/22/79	IOWA
POLK OIL COMPANY	DEE-2866	03/22/79	NEW MEXICO
QUICKWAY GROCERY	DEE-2839	03/22/79	ARIZONA
RAY WELCH TEXACO	DEE-2869	03/22/79	VIRGINIA
RAY'S 66	DEE-2832	03/22/79	FLORIDA
ROGERS OIL	DEE-2851	03/22/79	ARKANSAS
ROGERS OIL COMPANY	DEE-2850	03/22/79	GEORGIA
RUSTOMS BROTHERS FOREIGN	DEE-2826	03/22/79	FLORIDA
SEA SHELL CAR WASH	DEE-2823	03/22/79	FLORIDA
SOUTHERN AUTOMOTIVE, INC.	DEE-2834	03/22/79	FLORIDA
SPINX OIL COMPANY	DEE-2840	03/22/79	SOUTH CAROLINA
STAN BOYETT & SON	DEE-2833	03/22/79	CALIFORNIA
STONE, ROBERT A.	DEE-2893	03/22/79	CALIFORNIA
SUNCOAST OIL CO. OF FLORIDA	DEE-2870	03/22/79	FLORIDA
TRI-VALLEY DISTRIBUTING, INC	DEE-2836	03/22/79	UTAH
VILLAGE OF ERIE	DEE-2871	03/22/79	ILLINOIS

WARREN OIL CO.	DEE-2837	03/22/79	WISCONSIN
WATERFORD OIL CO.	DEE-2838	03/22/79	MINNESOTA
XERXES SERVICE	DEE-2824	03/22/79	MINNESOTA

03/23/79

ADAMS OIL COMPANY	DEE-2883	03/23/79	GEORGIA
BAY DRIVE AMERICAN SERVICE	DEE-2898	03/23/79	FLORIDA
BICKHAM PETROLEUM CORPORATION	DEE-3151	03/23/79	LOUISIANA
BOB BROWN'S OIL COMPANY	DEE-2889	03/23/79	ILLINOIS
BOB'S GULF SERVICE	DEE-2903	03/23/79	SOUTH CAROLINA
BOSS OIL CO.	DEE-2928	03/23/79	LOUISIANA
BRELAND TRIANGLE EXXON	DEE-2919	03/23/79	ALABAMA
BROOK PLAZA EXXON	DEE-2938	03/23/79	FLORIDA
C.L.W. OIL COMPANY	DEE-2875	03/23/79	TEXAS
C.P. PHELPS, INC.	DEE-2879	03/23/79	CALIFORNIA
CAPITOL INSULATING COMPANY	DEE-2952	03/23/79	NORTH CAROLINA
CHASE OIL COMPANY	DEE-2953	03/23/79	PENNSYLVANIA
CLETE'S 66	DEE-2930	03/23/79	FLORIDA
COLESVILLE CITGO	DEE-2956	03/23/79	MARYLAND
COLLEGE PARK SHELL	DEE-2985	03/23/79	FLORIDA
CONLEE OIL COMPANY	DEE-2955	03/23/79	MICHIGAN
DALY OIL COMPANY	DEE-2886	03/23/79	PENNSYLVANIA
EDISON EXXON	DEE-2881	03/23/79	MARYLAND
FAST & FRIENDLY MARKET	DEE-2957	03/23/79	TENNESSEE
FREDERICK ST. SUNOCO SERVICE	DEE-2961	03/23/79	MARYLAND
GASTON MERCHANTS OIL COMPANY	DEE-2963	03/23/79	NORTH CAROLINA
GRIER'S KWIK STOP	DEE-2964	03/23/79	ALABAMA
H & H GULF	DEE-2926	03/23/79	TEXAS
HAWTHORNE LANE SHELL	DEE-2876	03/23/79	NORTH CAROLINA
HILLTOP SERVICES, INC.	DEE-2978	03/23/79	WISCONSIN
JIM WILKIE OIL COMPANY	DEE-2970	03/23/79	FLORIDA
JOHN & BOB'S SERVICE CENTER	DEE-2899	03/23/79	WISCONSIN
JOHN'S CHEVRON	DEE-2971	03/23/79	FLORIDA
JOHNSON OIL COMPANY	DEE-2972	03/23/79	MICHIGAN
JOHNSON, KENNETH	DEE-2973	03/23/79	MICHIGAN
LAKEWOOD OIL COMPANY, INC.	DEE-2974	03/23/79	NEW JERSEY
MILLERS STANDARD SERVICE	DEE-2976	03/23/79	WISCONSIN
MOWERY OIL COMPANY, INC.	DEE-2979	03/23/79	VIRGINIA
NANCE, SALLIE L.	DEE-2977	03/23/79	MICHIGAN
NORTH COUNTRY GULF	DEE-2980	03/23/79	NEW YORK
P & H OIL COMPANY	DEE-2890	03/23/79	ALABAMA
PAUL'S EXXON	DEE-2936	03/23/79	FLORIDA
PETROLEUM PRODUCTS CORPORATION	DEE-2888	03/23/79	DISTRICT OF COLUMBI
PHILLIPS & MUNZEL SHELL	DEE-2925	03/23/79	FLORIDA
POLLARD GULF STATION	DEE-3162	03/23/79	NORTH CAROLINA
QUICK CAR WASH & GAS MART	DEE-2986	03/23/79	NORTH CAROLINA
ROSE HILL GULF	DEE-2948	03/23/79	VIRGINIA
RUSHER OIL COMPANY	DEE-2982	03/23/79	NORTH CAROLINA
SANGAREE, C.V.	DEE-3088	03/23/79	FLORIDA
SEILER OIL COMPANY	DEE-2902	03/23/79	WISCONSIN
SHELL OIL COMPANY	DEE-2894	03/23/79	DISTRICT OF COLUMBI
SUNNY SERVICE OIL COMPANY	DEE-2984	03/23/79	OHIO
URANIC1 COAL & OIL	DEE-2986	03/23/79	ILLINOIS
VAN HANDEL OIL COMPANY	DEE-2987	03/23/79	WISCONSIN
VESTAL GROCERY	DEE-3021	03/23/79	NORTH CAROLINA
W. G. JONES, JR.	DEE-2901	03/23/79	ARKANSAS
W.J. FLETCHER ARCO 70	DEE-2960	03/23/79	NEW JERSEY
WALNUT CASH & CARRY	DEE-2937	03/23/79	NORTH CAROLINA

[FR Doc. 79-19569 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-C

Cases Filed; Week of May 11 Through May 18, 1979

Notice is hereby given that during the week of May 11, 1979 through May 18, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Deparment of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

June 18, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

BILLING CODE 6450-01-M

LIST OF CASES INVOLVING THE STANDBY PETROLEUM PRODUCT ALLOCATION REGULATIONS FOR MOTOR GASOLINE

WEEK OF MAY 14 THROUGH MAY 18, 1979

IF GRANTED: THE FOLLOWING FIRMS WOULD RECIEVE AN EXCEPTION FROM THE ACTIVATION OF THE STANDBY PETROLEUM PRODUCT ALLOCATION REGULATIONS WITH RESPECT TO MOTOR GASOLINE.

05/14/79

ALAN CORPORATION	DEE-5132	05/14/79	MASSACHUSETTS
ATSU COMPANY	DEE-5133	05/14/79	VIRGINIA
BILL YOUNG'S TEXACO	DEE-5134	05/14/79	CALIFORNIA
BILL'S MOBIL SERVICE	DEE-5135	05/14/79	MARYLAND
BLUE VALLEY SHELL	DEE-5136	05/14/79	COLORADO
BOBBY GANDY EXXON	DEE-5137	05/14/79	SOUTH CAROLINA
BRADSHAW, JOE	DEE-5540	05/14/79	TEXAS
CAMPBELL OIL CO.	DEE-5127	05/14/79	TEXAS
FORK SHELL SERVICE STATION	DEE-5126	05/14/79	MARYLAND
GARLAND M. CENTER, INC.	DEE-5138	05/14/79	VIRGINIA
GLASS OIL CO.	DEE-5128	05/14/79	TEXAS
HENRY'S GULF	DEE-5139	05/14/79	TEXAS
HOLIDAY HARBOR	DEE-5140	05/14/79	CALIFORNIA
LE BLANC'S ARCO	DEE-5129	05/14/79	CALIFORNIA
MAIN STREET CHEVRON SERVICE	DEE-5141	05/14/79	CALIFORNIA
MANKATO OIL CO.	DEE-5142	05/14/79	MINNESOTA
MARINE DEVELOPMENT CORP	DEE-5143	05/14/79	TEXAS
MASON VALLEY PETROLEUM DEALERS	DEE-5144	05/14/79	NEVADA
MATHER SHELL	DEE-5145	05/14/79	CALIFORNIA
MCCORMACK, WILLIAM	DEE-5311	05/14/79	NORTH CAROLINA
MCGEE, HAROLD	DEE-4804	05/14/79	TENNESSEE
METAIRIE SHELL	DEE-5146	05/14/79	LOUISIANA
MR. K EXXON SELF SERVICE	DXE-5125	05/14/79	SOUTH CAROLINA
NUGENT, PATRICK J.	DEE-5147	05/14/79	TEXAS
PHIPPS PETROLEUM, INC.	DEE-5148	05/14/79	MISSOURI
PINE RIDGE STANDARD	DEE-5149	05/14/79	WISCONSIN
RAWLINS, ROBERT	DEE-5150	05/14/79	FLORIDA
REECE OIL CO.	DEE-5130	05/14/79	INDIANA
RICE-LINDQUIST, INC.	DEE-5312	05/14/79	NORTH DAKOTA
S.W. OIL CO. OF SAN ANTONIO,	DEE-5313	05/14/79	TEXAS
SAM F. ARLEDGE OIL CO.	DEE-5151	05/14/79	TEXAS
SHARPSTOWN TEXACO	DEE-5152	05/14/79	TEXAS
TERRYTOWN TEXACO	DEE-5153	05/14/79	LOUISIANA
U.S. COURIER CORPORATION	DEE-5154	05/14/79	CALIFORNIA
V & E OIL COMPANY	DEE-5155	05/14/79	CALIFORNIA
VALLEY PETROLEUM DISTRIBUTORS	DEE-5156	05/14/79	TEXAS
VIRGIE'S GAS SHOP	DEE-5157	05/14/79	TEXAS
WHITELEY-DAVIS OIL CO.	DEE-5159	05/14/79	MISSOURI
WILLIAM'S COUNTRY STORE	DEE-5158	05/14/79	DELEWARE
58 HIGHWAY SHELL	DEE-5131	05/14/79	TENNESSEE

05/15/79

A & J MINI MARKET	DEE-5193	05/15/79	NEW JERSEY
ALL POINTS TOWING INC.	DEE-5189	05/15/79	CALIFORNIA
ATKINS MINI MART	DEE-5391	05/15/79	CALIFORNIA
BULLARD PLAZA UNION	DEE-5207	05/15/79	CALIFORNIA
BUSLER ENTERPRISES, INC.	DEE-5175	05/15/79	INDIANA
CAMP SPRINGS CAR WASH, INC.	DEE-5203	05/15/79	MARYLAND
CARROTTE GARAGE	DEE-5181	05/15/79	CALIFORNIA
CENTURY - LA BREA SHELL	DEE-5318	05/15/79	CALIFORNIA
CITY OF CARMEL-BY-THE-SEA	DEE-5320	05/15/79	CALIFORNIA
CITY OF SIKESTON	DEE-5319	05/15/79	MISSOURI
COECLES HARBOUR MARINA & BOAT	DEE-5201	05/15/79	NEW YORK
DANVILLE GAS HOUSE COMPANY	DEE-5439	05/15/79	VIRGINIA
DAVIS OIL COMPANY	DEE-5316	05/15/79	MISSOURI
DAVIS, ROLAND A.	DEE-5208	05/15/79	OKLAHOMA
DIXIE SERVICE STATION	DEE-5178	05/15/79	OKLAHOMA
DON'S CHEVRON SERVICE	DEE-5541	05/15/79	CALIFORNIA
EARMAN OIL CO., INC.	DEE-5186	05/15/79	FLORIDA
EARMAN OIL CO., INC.	DEE-6308	05/15/79	FLORIDA
FLETCHER, WALTER F. JR.	DEE-5789	05/15/79	NEW JERSEY
FRANCIS UNION 76	DEE-5210	05/15/79	TENNESSEE
GARRETT, RALEIGH L.& MARILYN	DEE-5170	05/15/79	CALIFORNIA
HAROLD'S EXXON	DEE-5171	05/15/79	FLORIDA
HARTSVILLE OIL COMPANY	DEE-6178	05/15/79	TENNESSEE
HEISSERER OIL CO.	DEE-5200	05/15/79	MISSOURI
HOMAX OIL SALES, INC.	DEE-5174	05/15/79	WYOMING
HOOTTEN'S EXXON	DEE-5190	05/15/79	TEXAS
INTERSTATE VENDING CO. OF CA.	DEE-5202	05/15/79	CALIFORNIA
JIM ROBBINS EXXON	DEE-5182	05/15/79	CALIFORNIA
KOZIURA, WIESLAW	DEE-5177	05/15/79	CONNECTICUT
LEAKE OIL COMPANY, INC.	DEE-5184	05/15/79	LOUISIANA
LIMA TEXACO, INC.	DEE-5187	05/15/79	PENNSYLVANIA
LINDSAY'S ARCO	DEE-5212	05/15/79	CALIFORNIA
MCCURMICK'S ARCO MINI MART	DEE-5581	05/15/79	PENNSYLVANIA
MENLO PARK ARCO	DEE-5191	05/15/79	CALIFORNIA
MID SOUTH COMPANIES	DEE-5463	05/15/79	ARKANSAS
MISSION CAR WASH	DEE-5198	05/15/79	CALIFORNIA
MOUNT VERNON SUNOCO	DEE-5206	05/15/79	VIRGINIA
PATTERSON'S SUPERMARKET	DEE-5166	05/15/79	MISSISSIPPI
PUBLIX OIL CO.	DEE-5462	05/15/79	TENNESSEE
R & M PETOLEUM CO.	DEE-5209	05/15/79	CALIFORNIA
RAFIJAH, DAVID	DEE-5176	05/15/79	CALIFORNIA
RANCHO SUPER CAR WASH	DEE-5192	05/15/79	CALIFORNIA
ROBO OF DAYTON, INC.	DEE-5188	05/15/79	OHIO
RODGER'S MINI MARKET	DEE-5213	05/15/79	CALIFORNIA
ROLAND'S EXXON	DEE-5392	05/15/79	CALIFORNIA
SCOTT'S ARCO MINI MART	DEE-5576	05/15/79	CALIFORNIA
SCULLIN, HAROLD	DEE-5173	05/15/79	LOUISIANA
SELBYVILLE ARCO SERVICE STATI	DEE-5211	05/15/79	DELEWARE
SLIGER, ROBERT	DEE-5172	05/15/79	CALIFORNIA
SPARKLE CAR WASH	DEE-5167	05/15/79	CALIFORNIA
STEFANO'S GASOLINE	DEE-5183	05/15/79	CALIFORNIA
STRICKLAND'S SHELL STATION	DEE-5199	05/15/79	CALIFORNIA
TIPPINS OIL & GAS INC.	DEE-5168	05/15/79	MISSOURI
UNCLE RUSS'S SERVICE STATION	DEE-5185	05/15/79	MASSACHUSETTS
UNIVERSITY DRIVE SERVICE	DEE-5180	05/15/79	NORTH DAKOTA
VERN'S SERVICE CENTER	DEE-5194	05/15/79	CALIFORNIA
VILLAGE ONE-STOP	DEE-5195	05/15/79	TEXAS
VIRDELL, J.B.	DEE-5196	05/15/79	TEXAS
W.K. HOBBS, INC.	DEE-5179	05/15/79	NORTH CAROLINA
WARNER HOT SPRINGS RESORT	DEE-5169	05/15/79	CALIFORNIA
WIDES OIL CO.	DEE-5204	05/15/79	ILLINOIS
WILSON SHELL SERVICE	DXE-5502	05/15/79	CALIFORNIA

WRISTEN'S TEXACO	DEE-5205	05/15/79	CALIFORNIA
YOSEMITE EXXON SERVICE	DEE-5197	05/15/79	CALIFORNIA

05/16/79

A & A SERVICE	DEE-5275	05/16/79	CALIFORNIA
A & M SERVICE	DEE-5303	05/16/79	ARIZONA
A.C. FERNALD SONS, INC.	DEE-5353	05/16/79	MAINE
A'S GAS & SERVICE	DEE-5252	05/16/79	CALIFORNIA
AL PARK DISTRIBUTING, INC.	DEE-5372	05/16/79	NEVADA
AL'S WILSHIRE	DEE-5305	05/16/79	CALIFORNIA
ALL AMERICAN MUFFLER	DEE-5339	05/16/79	FLORIDA
ALLEN OIL COMPANY	DEE-5489	05/16/79	FLORIDA
AMEKS GULF	DEE-5414	05/16/79	MASSACHUSETTS
ANTHONY ALFAND SERVICE STATION	DEE-522A	05/16/79	NEW YORK
ARROWOOD EXXON	DEE-5323	05/16/79	NORTH CAROLINA
B & B AUTO REPAIRS	DEE-5278	05/16/79	ARIZONA
B & S TEXACO	DEE-5367	05/16/79	FLORIDA
BARNETT'S AUTO SERVICE	DEE-5281	05/16/79	CALIFORNIA
BEARSCH'S PENN JERSEY AUTO	DEE-5447	05/16/79	MARYLAND
BELL'S SERVICE	DEE-5293	05/16/79	CALIFORNIA
BENTON COUNTY COOP&GRAY BROS.	DEE-5237	05/16/79	MISSISSIPPI
BIG JIM'S GAS	DEE-5248	05/16/79	ARIZONA
BILL SPRADLEY TEXACO SERVICE	DEE-5338	05/16/79	TEXAS
BILLY'S SHELL SERVICE	DEE-5343	05/16/79	FLORIDA
BLAKELY'S AUTOMOTIVE	DEE-5247	05/16/79	ARIZONA
BOB'S MARINA SERVICE	DEE-5390	05/16/79	CALIFORNIA
BON-AIR GULF	DEE-5349	05/16/79	VIRGINIA
BRADSHAW MINI MARKET	DEE-5218	05/16/79	CALIFORNIA
BROWN'S AUTO REPAIR	DEE-5286	05/16/79	CALIFORNIA
BROWN'S SERVICE CENTER	DEE-5256	05/16/79	CALIFORNIA
BRUSH TEXACO	DEE-5410	05/16/79	VERMONT
BUCKLIN'S DOWNTOWN ARCO	DEE-5396	05/16/79	SOUTH DAKOTA
BUD (RAYMOND) ROOT	DEE-5444	05/16/79	CALIFORNIA
BUH, INC.	DEE-5232	05/16/79	MINNESOTA
CAF INDUSTRIES, INC.	DEE-5235	05/16/79	ARIZONA
CALDO OIL COMPANY	DEE-5756	05/16/79	CALIFORNIA
CALUTEX DELAWARE, INC.	DEE-5222	05/16/79	DELEWARE
CANYON WELDING	DEE-5399	05/16/79	CALIFORNIA
CARL'S SERVICE	DEE-5244	05/16/79	CALIFORNIA
CENTRAL MOBIL OF SUNNYVALE	DEE-5348	05/16/79	CALIFORNIA
CERRONI'S GULF	DEE-5413	05/16/79	RHODE ISLAND
CHEN'S UNITED PETROLEUM	DEE-5240	05/16/79	CALIFORNIA
CHRIS HOUSER CHEVRON	DEE-5326	05/16/79	CALIFORNIA
CHRISTY'S MARKET, INC.	DEE-5376	05/16/79	MASSACHUSETTS
CIRELLI, JEFFREY J.	DEE-5408	05/16/79	CONNECTICUT
CITY OF SAN DIEGO, CALIFORNIA	DEE-5442	05/16/79	CALIFORNIA
CITY SERVICE FUELS, INC.	DEE-5358	05/16/79	CONNECTICUT
CLARKE'S AMOCO	DEE-5422	05/16/79	CONNECTICUT
CLEERE'S EXXON	DEE-5371	05/16/79	CALIFORNIA
COLLEGE PARK GULF SERVICE	DEE-5327	05/16/79	FLORIDA
CONN WARD SHELL SERVICE STAT.	DEE-5381	05/16/79	CALIFORNIA
CONTINENTAL FUEL COMPANY	DEE-5216	05/16/79	IDAHO
CONVEX MARKETING CORP.	DEE-5229	05/16/79	MINNESOTA
COOK'S INTERSTATE SERVICE, INC	DEE-5335	05/16/79	SOUTH CAROLINA
COOL FUEL, INC.	DEE-5322	05/16/79	CALIFORNIA
CRESENT TRUCK LINES	DEE-5368	05/16/79	CALIFORNIA
CROSSLAND GAS	DEE-5274	05/16/79	CALIFORNIA
CURTNER MOBIL	DEE-5373	05/16/79	CALIFORNIA
DICKSON OIL COMPANY	DEE-5214	05/16/79	IDAHO
DOGIE, HARRY L.	DEE-5370	05/16/79	LOUISIANA
DULINAH BROTHERS	DEE-5342	05/16/79	PENNSYLVANIA
DON GINES CHEVRON	DEE-5329	05/16/79	CALIFORNIA
DOW FOUNDATIONS	DEE-5363	05/16/79	MAINE
DUNLAP - SWAIN	DEE-5236	05/16/79	TEXAS
DUPONT ARCO	DEE-5357	05/16/79	RHODE ISLAND
EAST MEADOW SHELL, INC.	DEE-5328	05/16/79	NEW YORK
ED PAGE EXXON	DEE-5544	05/16/79	TEXAS
ED'S AMOCO STATION	DEE-5418	05/16/79	CONNECTICUT
ED'S AUTOMOTIVE	DEE-5310	05/16/79	CALIFORNIA
EL TECOLTE GAS	DEE-5279	05/16/79	CALIFORNIA
EMILIO'S U.S. GAS	DEE-5287	05/16/79	CALIFORNIA
ENCINE PETROLEUM CO.	DEE-5307	05/16/79	CALIFORNIA
ESTES, KENNETH	DEE-5428	05/16/79	MASSACHUSETTS
FABLE'S N. MAIN AMOCO	DEE-5423	05/16/79	CONNECTICUT
FINA JOBBERS ASSOCIATION, INC.	DEE-5568	05/16/79	VIRGINIA
FITZPATRICK SERVICE	DEE-5273	05/16/79	CALIFORNIA
FOUR BROTHERS SERVICE	DEE-5260	05/16/79	CALIFORNIA
FRAN'S GAS	DEE-5251	05/16/79	CALIFORNIA
FRANKEBERGER & SON AUTO.	DEE-5291	05/16/79	CALIFORNIA
FRANS, JOE	DEE-5295	05/16/79	CALIFORNIA
FRED SERVICE, INC.	DEE-5378	05/16/79	MASSACHUSETTS
FRED'S TIRE & BATTERY	DEE-5382	05/16/79	FLORIDA
FREDDIE'S INSTANT SHOPPING	DEE-5388	05/16/79	TEXAS
FURR'S AUTO CENTER	DEE-5299	05/16/79	ARIZONA
GABE'S SERVICE	DEE-5239	05/16/79	CALIFORNIA
GARRETT'S EXXON SERVICENTER	DEE-5340	05/16/79	VIRGINIA
GENE'S SERVICE	DEE-5262	05/16/79	CALIFORNIA
GEORGE STODDARD CHEVRON SERV.	DEE-5230	05/16/79	CALIFORNIA
GEORGE'S GULF SERVICE	DEE-5359	05/16/79	MASSACHUSETTS
GLOBE-WALLY'S FORK LIFT CO.	DEE-5374	05/16/79	CALIFORNIA
GO-CAL SERVICE	DEE-5250	05/16/79	CALIFORNIA
GOMEZ SERVICE	DEE-5288	05/16/79	CALIFORNIA
GONZALES GAS	DEE-5289	05/16/79	CALIFORNIA
GOOD DEAL SELF-SERVICE	DEE-5271	05/16/79	CALIFORNIA
GUADALAJARA GAS	DEE-5280	05/16/79	CALIFORNIA
H.C. LESTER, INC.	DEE-5333	05/16/79	VIRGINIA
HADDAD, ABDALLA N.	DEE-5387	05/16/79	CALIFORNIA
HANDY'S WESTSIDE SHELL	DEE-5346	05/16/79	GEORGIA
HARBOUR SELF SERVICE	DEE-5276	05/16/79	CALIFORNIA
HARMON'S AMOCO	DEE-5233	05/16/79	MARYLAND
HARTWIG, HENRY	DEE-5361	05/16/79	MASSACHUSETTS
HERB'S SERVICE	DEE-5270	05/16/79	CALIFORNIA
HERRLE, RUSSELL L.	DEE-5227	05/16/79	CALIFORNIA
HIGHLANDS TEXACO STATION	DEE-5360	05/16/79	MASSACHUSETTS
HIRAM'S SERVICE	DEE-5481	05/16/79	CALIFORNIA
HOLT, ROY	DEE-5297	05/16/79	CALIFORNIA
HOUSELY DISTRIBUTING, INC.	DEE-5350	05/16/79	NEW MEXICO
HOWARD DICKERSON CHEVRON SERV.	DEE-5330	05/16/79	CALIFORNIA
I & J GULF	DEE-5445	05/16/79	TEXAS
INTERSTATE AMOCO	DEE-5434	05/16/79	CONNECTICUT
ISAAC'S GAS	DEE-5253	05/16/79	CALIFORNIA
J & D MOBIL	DEE-5433	05/16/79	MASSACHUSETTS
J. LAWSON GILBERT DISTRIBUTING	DEE-5452	05/16/79	MARYLAND
JAMES, CHUCK	DEE-5272	05/16/79	CALIFORNIA
JAYNE	DEE-5231	05/16/79	PENNSYLVANIA
JERRY PORTER OIL CO.	DEE-5315	05/16/79	TEXAS
JERRY'S AMOCO	DEE-5419	05/16/79	CONNECTICUT

JOE'S RANCHO GAS	DEE-5277	05/16/79	CALIFORNIA
JOHN'S AUTOMOTIVE	DEE-5284	05/16/79	CALIFORNIA
JOHN'S SERVICE	DEE-5257	05/16/79	CALIFORNIA
JOHNNY'S PETROLEUM	DEE-5249	05/16/79	CALIFORNIA
JORDON'S SERVICE STATION	DEE-5394	05/16/79	NORTH CAROLINA
JORGENSEN, ALF M.	DEE-5407	05/16/79	CONNECTICUT
JURDI'S	DEE-5264	05/16/79	CALIFORNIA
KENDALL TEXACO	DEE-5458	05/16/79	FLORIDA
KERN'S SERVICE	DEE-5267	05/16/79	CALIFORNIA
KHATIB, SAMIM	DEE-5265	05/16/79	CALIFORNIA
KOKO'S ARCO	DEE-5380	05/16/79	CALIFORNIA
KUTTAWA CHEVRON SERV. STATION	DEE-5437	05/16/79	KENTUCKY
L & G SERVICENTER	DEE-5354	05/16/79	MASSACHUSETTS
LA JOLLA AUTOMOTIVE SERVICE	DEE-5298	05/16/79	CALIFORNIA
LAMPERT, ALLEN L.	DEE-5412	05/16/79	NEW HAMPSHIRE
LANDRY, DONALD P.	DEE-5545	05/16/79	LOUISIANA
M & R ENTERPRISES	DEE-5426	05/16/79	VERMONT
M.F.A. OIL COMPANY	DEE-5453	05/16/79	MISSOURI
MAC'S SERVICE	DEE-5263	05/16/79	CALIFORNIA
MACRI'S SERVICE	DEE-5296	05/16/79	
MAKRAM MOBIL OIL	DEE-5385	05/16/79	CALIFORNIA
MALIBU PETROLEUM	DEE-5243	05/16/79	CALIFORNIA
MAPLEWOOD CONOCO SERVICE	DEE-5448	05/16/79	COLORADO
MARINE OIL COMPANY	DEE-5446	05/16/79	KENTUCKY
MARTUNE BROTHERS, INC.	DEE-5366	05/16/79	MASSACHUSETTS
MARTY'S SERVICE	DEE-5309	05/16/79	CALIFORNIA
MCHENRY EXXON SERVICE	DEE-5386	05/16/79	CALIFORNIA
MERRY DALE SHELL	DEE-5458	05/16/79	LOUISIANA
MIKE & ED'S AUTO CENTER	DEE-5266	05/16/79	CALIFORNIA
MILLER'S PACK HORSE	DEE-5398	05/16/79	SOUTH DAKOTA
MILLS, DAVID P.	DEE-5344	05/16/79	LOUISIANA
MINI-SERVE, INC.	DEE-5314	05/16/79	TEXAS
MIRAMAR EXXON SERVICE	DEE-5345	05/16/79	FLORIDA
MOHAWK MOTORS, INC.	DEE-5417	05/16/79	MASSACHUSETTS
NASON'S SERVICE CENTER	DEE-5425	05/16/79	MAINE
NAVY EXCHANGE	DEE-5415	05/16/79	NEW HAMPSHIRE
NEUMEISTER'S STANDARD SERVICE	DEE-5389	05/16/79	INDIANA
NEVILLE'S SERVICE	DEE-5246	05/16/79	ARIZONA
NIAGRA FRONTIER VOC. REHAB.CTR	DEE-5332	05/16/79	NEW YORK
NORTH READING GULF	DEE-5409	05/16/79	MASSACHUSETTS
NORTHERN PETROLEUM INC.	DEE-5429	05/16/79	CONNECTICUT
NORTHERN PETROLEUM INC.	DEE-5430	05/16/79	CONNECTICUT
NORTHERN PETROLEUM INC.	DEE-5431	05/16/79	CONNECTICUT
NORTHERN PETROLEUM INC.	DEE-5432	05/16/79	CONNECTICUT
OASIS TRADING POST	DEE-5369	05/16/79	NEVADA
OX-BOW MARINA INC.	DEE-5424	05/16/79	MASSACHUSETTS
P & J AUTOMOTIVE	DEE-5283	05/16/79	CALIFORNIA
P & M OIL COMPANY, INC.	DEE-5225	05/16/79	VIRGINIA
P & M OIL COMPANY, INC.	DEE-5451	05/16/79	ALABAMA
PATCHEN'S AMOCO	DEE-5421	05/16/79	CONNECTICUT
PAY-LO GAS	DEE-5282	05/16/79	CALIFORNIA
PECK'S ARCO MINI MARKET	DEE-5440	05/16/79	CALIFORNIA
PETER M. CLARK INC.	DEE-5436	05/16/79	RHODE ISLAND
PHIL'S AMOCO	DEE-5420	05/16/79	CONNECTICUT
PISMO BEACH CHAMBER OF COMMER.	DEE-5400	05/16/79	CALIFORNIA
PLATT MUSIC CORPORATION	DEE-5336	05/16/79	CALIFORNIA
POST ROAD CHEVRON, INC.	DEE-5362	05/16/79	MASSACHUSETTS
PRICE & HENDERSON, INC.	DEE-5215	05/16/79	IDAHO
PRIGGE, RUDY	DEE-5438	05/16/79	TEXAS
PROUSE, DON	DEE-5294	05/16/79	CALIFORNIA
QUIK SERV MARTS, INC.	DEE-5490	05/16/79	FLORIDA
RAB CORPORATION	DEE-5325	05/16/79	FLORIDA
RAMITEE TEXACO	DEE-5341	05/16/79	CALIFORNIA
RAY'S CHEVRON	DEE-5223	05/16/79	CALIFORNIA
RAY'S PARADISE MOBIL	DEE-5379	05/16/79	CONNECTICUT
RICE, RONALD	DEE-5308	05/16/79	CALIFORNIA
RICHARD R. WHEELER, INC.	DEE-5364	05/16/79	MASSACHUSETTS
RIGHI, RALPH	DEE-5245	05/16/79	CALIFORNIA
RMK MINI MARKET	DEE-5226	05/16/79	DELEWARE
RON'S SERVICE	DEE-5268	05/16/79	CALIFORNIA
RON'S SHELL SERVICE, INC.	DEE-5443	05/16/79	CALIFORNIA
ROSENTHAL, ROBERT N.	DEE-5745	05/16/79	CALIFORNIA
ROSSVILLE BLVD. EXXON	DEE-5337	05/16/79	TENNESSEE
ROXY MINI MARKET	DEE-5220	05/16/79	PENNSYLVANIA
ROY'S SERVICE CENTER	DEE-5356	05/16/79	CONNECTICUT
SAENZ SERVICE	DEE-5238	05/16/79	CALIFORNIA
SAN FERNANDO CHEVRON	DEE-5224	05/16/79	CALIFORNIA
SANDERS BUS LINES, INC.	DEE-5381	05/16/79	CALIFORNIA
SAPP, GUY	DEE-5331	05/16/79	FLORIDA
SAVAGE OIL CO. (ANDERSON & CO)	DEE-5324	05/16/79	TEXAS
SAVULEY & SHEPARD SUNOCO STAT.	DEE-5352	05/16/79	MASSACHUSETTS
SCALZI, ANTHONY J.	DEE-5234	05/16/79	VIRGINIA
SHELL, ELDEN A.	DEE-5397	05/16/79	MICHIGAN
SHOWBOAT IND. SERVICE	DEE-5302	05/16/79	NEVADA
SIMON'S GAS	DEE-5290	05/16/79	CALIFORNIA
SKELLEY GARAGE	DEE-5351	05/16/79	CALIFORNIA
SKOKUPSKI BROTHERS	DEE-5355	05/16/79	MASSACHUSETTS
SMITTY'S ALL SERVICE	DEE-5300	05/16/79	ARIZONA
SOL'S GAS	DEE-5241	05/16/79	CALIFORNIA
SOUTHERN TRUCK TERMINAL	DEE-5219	05/16/79	SOUTH CAROLINA
STEVE'S AMOCO	DEE-5416	05/16/79	CONNECTICUT
SUNSET SERVICE	DEE-5258	05/16/79	CALIFORNIA
T.C. TREAKLE/J.A. CHRISTOPHER	DEE-5393	05/16/79	VIRGINIA
TED'S SERVICE CENTER INC.	DEE-5427	05/16/79	MASSACHUSETTS
TELLEZ SERVICE	DEE-5292	05/16/79	CALIFORNIA
THE BARNACLE STORE	DEE-5365	05/16/79	MAINE
THE FULLERTON CAR WASH	DEE-5449	05/16/79	CALIFORNIA
THOMAS F. GUTHRIE, JR., INC.	DEE-5411	05/16/79	CONNECTICUT
TODD'S AUTOMOTIVE	DEE-5255	05/16/79	CALIFORNIA
TOM & JIM'S SERVICE	DEE-5285	05/16/79	CALIFORNIA
TONY'S GULF	DEE-5254	05/16/79	CALIFORNIA
TRI-COUNTY OIL COMPANY, INC.	DEE-5395	05/16/79	OKLAHOMA
TRIANGLE MOBIL	DEE-5375	05/16/79	CONNECTICUT
UNISERVICE CENTER, INC.	DEE-5221	05/16/79	CALIFORNIA
UPWICH, HERMAN VANDEW	DEE-5269	05/16/79	CALIFORNIA
USS SERVICE	DEE-5261	05/16/79	CALIFORNIA
VAN ALSTINE OIL COMPANY	DEE-5383	05/16/79	WISCONSIN
VANDERSPEK, JACK	DEE-5301	05/16/79	CALIFORNIA
VANDIVER, M.J.	DEE-5347	05/16/79	KENTUCKY
VILLAGE FOOD STORE	DEE-5384	05/16/79	LOUISIANA
WADIE'S	DEE-5259	05/16/79	CALIFORNIA
WALKEY'S EXXON	DEE-5377	05/16/79	NEW HAMPSHIRE
WALLNER, VICTOR J.	DEE-5242	05/16/79	ARIZONA
WASH WORLD	DEE-5306	05/16/79	CALIFORNIA
WATERLOO FOOD & FUEL	DEE-5751	05/16/79	CALIFORNIA
WEEKLY'S EXXON SERVICE CENTER	DEE-6329	05/16/79	CALIFORNIA
WEST MAIN AMOCO	DEE-5435	05/16/79	CONNECTICUT
WILSON-FORD, INC.	DEE-5450	05/16/79	MARYLAND

10 * 10 TRUCK STOP	DEE-5304	05/16/79	CALIFORNIA
6TH & STATE SERVICE	DEE-5334	05/16/79	SOUTH DAKOTA

05/17/79

(HAVERHILL)STORE	DEE-5516	05/17/79	MASSACHUSETTS
A.R.D. & SONS, INC.	DEE-5714	05/17/79	MASSACHUSETTS
ALLAN AUTOMATIC SPRINKLER CORP	DEE-5578	05/17/79	CALIFORNIA
ANALETTO BROS., INC.	DEE-5708	05/17/79	MASSACHUSETTS
ANTHONY'S SERVICE CENTER	DEE-5706	05/17/79	RHODE ISLAND
APPLEBY'S SERVICE, INC.	DEE-5475	05/17/79	WISCONSIN
ART'S AMOCO	DEE-5763	05/17/79	CONNECTICUT
AUTO SERVICE, INC.	DEE-5580	05/17/79	MAINE
AUTOMOTIVE PERFORM. SPECIALIST	DEE-5459	05/17/79	VIRGINIA
BARNES EXXON SERVICE	DEE-5493	05/17/79	KENTUCKY
BAUSERMAN OIL CO.	DXE-6081	05/17/79	VIRGINIA
BERNARD'S SERVICENTER	DEE-5979	05/17/79	LOUISIANA
BIXBY GENERAL STORE	DEE-5486	05/17/79	NORTH CAROLINA
BOSTON ROAD SHELL	DEE-5569	05/17/79	MASSACHUSETTS
BOULEVARD GULF SERVICE	DEE-5748	05/17/79	SOUTH CAROLINA
BUFORD & BUCKNER TEXACO	DEE-5495	05/17/79	CONNECTICUT
BUFORD OIL COMPANY, INC.	DEE-5730	05/17/79	CALIFORNIA
BYNUM, BRUCE	DEE-5744	05/17/79	LOUISIANA
COLLEGE VIEW TEXACO	DEE-5738	05/17/79	NORTH CAROLINA
CONOCO TRAVEL SHOPPE	DEE-5483	05/17/79	MONTANA
CRABTREE'S SERVICE STATION	DEE-5712	05/17/79	MASSACHUSETTS
DARTMOUTH ST. SHELL SERVICE	DEE-5519	05/17/79	MASSACHUSETTS
DAVIS' EXXON	DEE-5479	05/17/79	FLORIDA
DENELLI'S SERVICE STATION	DEE-5560	05/17/79	MASSACHUSETTS
DEPIERO'S EXXON	DEE-5715	05/17/79	MASSACHUSETTS
DIFAZIO, ROBERT	DEE-5704	05/17/79	MASSACHUSETTS
DIPILATO BROTHERS	DEE-5728	05/17/79	MASSACHUSETTS
DOWNTOWN EXXON	DEE-5491	05/17/79	KENTUCKY
ELLINGSEN-MACLEAN OIL CO, INC.	DEE-5404	05/17/79	MICHIGAN
FLEMING'S GARAGE	DEE-5725	05/17/79	MASSACHUSETTS
FRANCIS & GOTTLIEB	DEE-5567	05/17/79	NEW MEXICO
FRANCIS & GOTTLIEB	DEE-5752	05/17/79	NEW MEXICO
GALLAGHER'S AMOCO SERVICE	DEE-5496	05/17/79	MARYLAND
GARDNER, KIRK, & COWDEN, INC.	DEE-5468	05/17/79	OKLAHOMA
GIBSONS KOMFORT AIR	DEE-5731	05/17/79	CALIFORNIA
GLOBE-WALLYS FORK LIFT COMPANY	DEE-5753	05/17/79	CALIFORNIA
HALE, BILL	DEE-5477	05/17/79	LOUISIANA
HALPRIN'S SERVICE	DEE-5520	05/17/79	CONNECTICUT
HARPERS FARM CAR CARE	DEE-5498	05/17/79	MARYLAND
HAYES, ERWIN H.	DEE-5888	05/17/79	MASSACHUSETTS
HOLDEN MOBIL	DEE-5717	05/17/79	MASSACHUSETTS
HOLIDAY EXXON	DEE-5492	05/17/79	KENTUCKY
J & M SHELL SERVICE	DEE-5476	05/17/79	CALIFORNIA
J.E. SHARBER OIL COMPANY	DEE-5405	05/17/79	GEORGIA
JACK HALEY'S TIRE SERVICE	DEE-5485	05/17/79	CALIFORNIA
JASPER & JASPER COAL CO.	DEE-5494	05/17/79	KENTUCKY
JIFFY FOOD STORES	DEE-5499	05/17/79	FLORIDA
JOHN J. BENSON, INC.	DEE-5705	05/17/79	MASSACHUSETTS
KARIAN'S TEXACO	DEE-5469	05/17/79	CALIFORNIA
KEN'S ARCO	DEE-5217	05/17/79	CALIFORNIA
KINGS CORNERS	DEE-5732	05/17/79	IDAHO
KREMER OIL CORP.	DEE-5565	05/17/79	VIRGINIA
LITTONS ORCHARDHILL AMOCO	DEE-5497	05/17/79	MARYLAND
MARSHALL, RICHARD B.	DEE-5718	05/17/79	MASSACHUSETTS
MASON OIL COMPANY, INC.	DEE-5746	05/17/79	CALIFORNIA
MAZALO'S REALTY TRUST	DEE-5716	05/17/79	MASSACHUSETTS
MCLEAN MOBIL SERVICE	DEE-5456	05/17/79	VIRGINIA
MCSHEFFREY, ROBERT C.	DEE-5710	05/17/79	MASSACHUSETTS
MESSINA REALTY TRUST	DEE-5521	05/17/79	MASSACHUSETTS
MORGAN, J. ED	DEE-5488	05/17/79	TEXAS
MULLEN, JOHN J.	DEE-5727	05/17/79	MASSACHUSETTS
NAVY EXCHANGE SERVICE STATION	DEE-5724	05/17/79	MASSACHUSETTS
NELSON'S GROCERY,STATION&FEED	DEE-5980	05/17/79	OKLAHOMA
NEWTON AMERICAN SERVICESTATION	DEE-5711	05/17/79	CONNECTICUT
NORMAN'S MOBIL	DEE-5487	05/17/79	TEXAS
PATTERSON EXXON SERVICE	DEE-5739	05/17/79	CALIFORNIA
PETTY'S SERVICE CENTER	DEE-5474	05/17/79	TEXAS
PUDLETTO, C. & VITTI, G.	DEE-5726	05/17/79	CONNECTICUT
QUIK SERV MART, INC.	DEE-5470	05/17/79	FLORIDA
RAY TUCKER EXXON	DEE-5464	05/17/79	CALIFORNIA
RED BLUFF MOBIL SERVICE CENTER	DXE-6230	05/17/79	TEXAS
RICHDALE DAIRY (37 ESSEX,LYNN	DEE-5513	05/17/79	MASSACHUSETTS
RICHDALE DAIRY STORES, INC	DEE-5517	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(AMESBURY)STORES	DEE-5507	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(ESSEX)STORES,IN	DEE-5515	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(GEORGETOWN,MASS	DEE-5503	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(HAMILTON)STORES	DEE-5508	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(HAVERHILL)STORE	DEE-5511	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(IPSWICH)STORES,	DEE-5504	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(LYNN)STORES,INC	DEE-5506	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(METHUEN) STORES	DEE-5505	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(ROWLEY)STORES,	DEE-5512	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(178 RANTOUL,	DEE-5510	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(197 LINCOLN,	DEE-5509	05/17/79	MASSACHUSETTS
RICHDALE DAIRY(229BROADWAY,LYN	DEE-5514	05/17/79	MASSACHUSETTS
ROBY'S WEST BELT MOBIL	DEE-5460	05/17/79	TEXAS
ROZEMA'S STANDARD SERVICE	DEE-5482	05/17/79	MICHIGAN
RUTLEDGE OIL COMPANY	DEE-5743	05/17/79	MISSOURI
SAM'S SERVICE, INC.	DEE-5721	05/17/79	MASSACHUSETTS
SMITH SERVICE, INC.	DEE-5709	05/17/79	MASSACHUSETTS
SMITH, ROBERT F.	DEE-5707	05/17/79	MASSACHUSETTS
SOUTH YARMOUTH GULF	DEE-5723	05/17/79	MASSACHUSETTS
SOUTHWEST OIL CO. OF SAN ANTON	DEE-5455	05/17/79	TEXAS
SPINDEL, DEBORAH ANN	DEE-5713	05/17/79	CONNECTICUT
STUHAM TIRE COMPANY, INC.	DEE-5465	05/17/79	VIRGINIA
STONE, RICHARD L.	DEE-5722	05/17/79	MASSACHUSETTS
STRICKLAND OIL COMPANY	DEE-5484	05/17/79	GEORGIA
THE CARPORT	DEE-5570	05/17/79	CALIFORNIA
THREE FORKS EXXON	DEE-5467	05/17/79	MONTANA
TIMBERLANE TRANSPORTATION,INC.	DEE-5472	05/17/79	NEW HAMPSHIRE
TONY'S EXXON SERVICE STATION	DEE-5466	05/17/79	GEORGIA
TRI-COR PETROLEUM, INC.	DEE-5457	05/17/79	NEW YORK
TRIANGLE EXXON	DEE-5478	05/17/79	FLORIDA
UNION DOOR & HARDWARE	DEE-5729	05/17/79	CALIFORNIA
VENNS SERVICE CENTER	DEE-5755	05/17/79	CALIFORNIA
WATTS LABOR COMM,ACTION,CMTEE.	DEE-5461	05/17/79	CALIFORNIA
WESTVILLE GETTY	DEE-5559	05/17/79	NEW HAMPSHIRE
WHALING MUSEUM SHELL	DEE-5518	05/17/79	MASSACHUSETTS
WHISTLE STOP	DEE-5838	05/17/79	MARYLAND
WILLIAMS INSULATION OF N. CAL.	DEE-5473	05/17/79	CALIFORNIA
WILLIAMSBURG EXXON	DEE-5566	05/17/79	KENTUCKY
WILLIAMSBURG SHELL SERVICE	DEE-5480	05/17/79	VIRGINIA
WOITALLA SERVICE COMPANY	DEE-5579	05/17/79	MINNESOTA

WOODS SUPERBURGER	DEE-5471	05/17/79	GEORGIA
WRIGHT, JACQUELINE M.	DEE-5719	05/17/79	MASSACHUSETTS
WRIGHT, WILLIE	DEE-5978	05/17/79	TEXAS

05/18/79

A & J AMOCO	DEE-5624	05/18/79	MASSACHUSETTS
A-1 AUTO SERVICE	DEE-5631	05/18/79	CONNECTICUT
A-1 GULF SERVICE	DEE-5655	05/18/79	MASSACHUSETTS
AUGY'S GULF SERVICE	DEE-5650	05/18/79	MASSACHUSETTS
AUTO SERVICE CENTER	DEE-5649	05/18/79	MASSACHUSETTS
BAILEY'S YOUNG WORLD	DEE-5608	05/18/79	CALIFORNIA
BEN'S FILLING STATION	DEE-5619	05/18/79	MAINE
BLANCHFIELD'S ARCO, INC.	DEE-5573	05/18/79	DELEWARE
BOB'S GULF	DEE-5640	05/18/79	CONNECTICUT
BRADFORD GULF	DEE-5703	05/18/79	RHODE ISLAND
BRADFORD HEIGHTS GETTY	DEE-5636	05/18/79	CONNECTICUT
C.H.S. ENTERPRISES, INC.	DEE-5616	05/18/79	CALIFORNIA
CANTORE'S TEXACO	DEE-5766	05/18/79	CALIFORNIA
CHESTNUT HILL GULF	DEE-5634	05/18/79	MASSACHUSETTS
CITY OF SAN BUENAVENTURA, CA.	DEE-5587	05/18/79	CALIFORNIA
CLIFF'S GARAGE	DEE-5673	05/18/79	CONNECTICUT
COAST CIRCLE ARCO	DEE-5612	05/18/79	CALIFORNIA
CONSOLIDATED LEASING CORP.	DEE-5614	05/18/79	CALIFORNIA
CROCKER'S TRANSPORTATION INC.	DEE-5618	05/18/79	MASSACHUSETTS
CURRIER, DAVID L.	DEE-5622	05/18/79	VERMONT
CURRIER'S GARAGE	DEE-5672	05/18/79	NEW HAMPSHIRE
CURT'S CHEVRON	DEE-5607	05/18/79	CALIFORNIA
DALE'S CAR CARE	DEE-5590	05/18/79	OHIO
DAN'S GROCERY CORPORATION	DEE-5588	05/18/79	NEW YORK
DANBY'S HOLIDAY GULF	DEE-5651	05/18/79	CONNECTICUT
DEPALMA'S GARAGE	DEE-5684	05/18/79	CONNECTICUT
DERBY TOWN MARKET	DEE-5679	05/18/79	VERMONT
DIPIETRO, SALVATURE	DEE-5691	05/18/79	RHODE ISLAND
DIXIE ENTERPRISES	DEE-5595	05/18/79	CALIFORNIA
DOMINICO, NATALE	DEE-5630	05/18/79	MASSACHUSETTS
DON'S GULF SERVICE	DEE-5644	05/18/79	CONNECTICUT
DON'S MARKET, INC.	DEE-5680	05/18/79	NEW HAMPSHIRE
DON'S MOBIL	DEE-5661	05/18/79	VERMONT
DRUM HILL GULF	DEE-5635	05/18/79	MASSACHUSETTS
DUBE'S CASH MARKET	DEE-5639	05/18/79	NEW HAMPSHIRE
DUSTIN'S GULF	DEE-5625	05/18/79	MASSACHUSETTS
E & D SELF SERVICE MARKET	DEE-5835	05/18/79	MARYLAND
E.C. FEAGAN, INC.	DEE-5598	05/18/79	TEXAS
ERNIE & SON	DEE-5623	05/18/79	MASSACHUSETTS
ETHEL SHAFER'S MINI MARKET	DEE-5574	05/18/79	PENNSYLVANIA
FAIRHAVEN SUNOCO	DEE-5701	05/18/79	MASSACHUSETTS
FOX STANDARD SERVICE	DEE-5594	05/18/79	WISCONSIN
FRANKLIN PARK SERVICE	DEE-5700	05/18/79	MASSACHUSETTS
GARNETT, THERESA	DEE-5666	05/18/79	MAINE
GEORGE WOLF, INC.	DEE-5662	05/18/79	CONNECTICUT
GERMANO'S EXXON	DEE-5674	05/18/79	MASSACHUSETTS
GOV. FRANCIS MOBIL	DEE-5697	05/18/79	RHODE ISLAND
GREENFIELD'S SERVICE	DEE-5647	05/18/79	CONNECTICUT
GREENWICH GULF CENTER	DEE-5682	05/18/79	CONNECTICUT
GROVELAND SALES & SERVICE	DEE-5620	05/18/79	MASSACHUSETTS
H.C. PETROLEUM, INC.	DEE-5638	05/18/79	RHODE ISLAND
HAMILTON TEST SYSTEMS CA., INC	DEE-5555	05/18/79	CALIFORNIA
HAMILTON VILLAGE GULF	DEE-5626	05/18/79	MASSACHUSETTS
HAVILAND SERVICE STATION	DEE-5664	05/18/79	VERMONT
HESTER OIL CO.	DEE-5591	05/18/79	NEW MEXICO
HINSON	DEE-5602	05/18/79	FLORIDA
HOP-N-SHOP #1	DEE-5605	05/18/79	LOUISIANA
HUNTINGTON FILLING STATION, INC	DEE-5646	05/18/79	CONNECTICUT
HY'S SERVICE CENTER, INC.	DEE-5757	05/18/79	CONNECTICUT
J.J. HAPGOOD STORE	DEE-5677	05/18/79	VERMONT
JACK'S MOBIL	DEE-5909	05/18/79	MINNESOTA
JIM'S SERVICE STATION, INC.	DEE-5621	05/18/79	MASSACHUSETTS
JOHNSON, GEORGE	DEE-5548	05/18/79	ALABAMA
JOHNSON'S GULF	DEE-5629	05/18/79	NEW HAMPSHIRE
JON'S MOBIL	DEE-5637	05/18/79	MASSACHUSETTS
JONES' CORNER	DEE-5586	05/18/79	INDIANA
JOSEPH ANASTASIO	DEE-5669	05/18/79	MAINE
KANN'S 88	DEE-5676	05/18/79	MASSACHUSETTS
KINMUNDY OIL COMPANY	DEE-5549	05/18/79	ILLINOIS
KNIGHTS OIL & HEATING	DEE-5642	05/18/79	CONNECTICUT
KRAFT, INC.	DEE-5900	05/18/79	CALIFORNIA
LARRY'S MOBIL	DEE-5692	05/18/79	MASSACHUSETTS
LASALLE SERVICE	DEE-5694	05/18/79	RHODE ISLAND
LASKEY, FRANK	DEE-5671	05/18/79	MAINE
LOJEK'S GAS & OIL	DEE-5611	05/18/79	OHIO
M & C SERVICE	DEE-5683	05/18/79	CONNECTICUT
M & R SERVICE STATION, INC	DEE-5575	05/18/79	NEW JERSEY
MAIN & BRIDGE MOBIL	DEE-5663	05/18/79	CONNECTICUT
MARSHALL'S SERVICE CENTER, INC.	DEE-5685	05/18/79	CONNECTICUT
MARSHAND, LEONARD A.	DEE-5613	05/18/79	OHIO
MARV'S MOBIL	DEE-5693	05/18/79	MASSACHUSETTS
MCLEOD, MASON	DEE-5600	05/18/79	FLORIDA
METAIRIE ROAD GULF	DEE-5563	05/18/79	LOUISIANA
MIDDLESEX AUTO CENTER	DEE-5690	05/18/79	CONNECTICUT
MIKE'S ARCO MINI MARKET	DEE-5592	05/18/79	CALIFORNIA
MILT'S MESS STATION	DEE-5556	05/18/79	MARYLAND
MOBIL SELF SERVICE	DEE-5678	05/18/79	MASSACHUSETTS
MONTAGUE, DAVID R.	DEE-5656	05/18/79	CONNECTICUT
MONTEBELLO LAND & WATER CO.	DEE-5572	05/18/79	CALIFORNIA
MULLIN'S COUNTRY MARKET	DEE-5609	05/18/79	DELEWARE
NAVIT TIRE & BATTERY SHOP	DEE-5659	05/18/79	RHODE ISLAND
NEAL'S TEXACO	DEE-5610	05/18/79	CALIFORNIA
NESBIT'S SERVICE, INC.	DEE-5698	05/18/79	MASSACHUSETTS
NEWTON'S EXXON	DEE-5689	05/18/79	CONNECTICUT
NORRIS SUPPLY COMPANY, INC.	DEE-5596	05/18/79	NEVADA
NORTHERN PETROLEUM INC.	DEE-5696	05/18/79	CONNECTICUT
NORTHRUP, LOUIS	DEE-5660	05/18/79	RHODE ISLAND
ODENTON AMOCO	DEE-5585	05/18/79	MARYLAND
OLSON'S EXXON SERVICE STATION	DEE-5589	05/18/79	ARKANSAS
OLYMPIC INDUSTRIAL CLINICS	DEE-5615	05/18/79	CALIFORNIA
P & J SERVICE	DEE-5657	05/18/79	MASSACHUSETTS
PARK AVENUE EXXON	DEE-5675	05/18/79	CONNECTICUT
PARK AVENUE MOBIL	DEE-5695	05/18/79	MASSACHUSETTS
PEARMAN STILLER OIL CO., INC.	DEE-5564	05/18/79	TEXAS
PUCINO., EDWARD F.	DEE-5627	05/18/79	RHODE ISLAND
R.J. MURRAY TEXACO	DEE-5681	05/18/79	NEW HAMPSHIRE
RAINBOW OILS OF SAN ANGELO	DEE-5501	05/18/79	TEXAS
RAY PEPPELMAN, INC.	DEE-5584	05/18/79	PENNSYLVANIA
RAY'S GULF SERVICE	DEE-5658	05/18/79	MASSACHUSETTS
RIPLEY & FLETCHER CO, #28	DEE-5633	05/18/79	MAINE
RIPLEY & FLETCHER CO, #52	DEE-5632	05/18/79	NEW HAMPSHIRE
RIVERSIDE SHELL	DEE-5665	05/18/79	MASSACHUSETTS

SAN FRAN. PRODUCE TERMINAL OFF	DEE-5552	05/18/79	CALIFORNIA
SCOTT OIL CO.	DEE-5604	05/18/79	TENNESSEE
SEABORN WRIGHT	DEE-5920	05/18/79	CONNECTICUT
SECONDI BROS. SERVICE STATION	DEE-5643	05/18/79	CONNECTICUT
SELF SERVICE	DEE-5688	05/18/79	RHODE ISLAND
SHEEHAN OIL COMPANY	DEE-5561	05/18/79	OKLAHOMA
SILVA'S GULF	DEE-5652	05/18/79	MASSACHUSETTS
SINCLAIR OIL CORPORATION	DEE-5522	05/18/79	WYOMING
SMITHERS TRANSPORTATION RESEAR	DEE-5583	05/18/79	TEXAS
SOUTH RIDGEWOOD AMOCO	DEE-5606	05/18/79	FLORIDA
SPIKES SERVICE STATION	DEE-5653	05/18/79	CONNECTICUT
STAN'S GULF	DEE-5641	05/18/79	MAINE
STEPHENSON CHEVRON	DEE-5599	05/18/79	FLORIDA
SUMMIT CAR CARE CENTER	DXE-5786	05/18/79	MISSOURI
THOMAS' SERVICESTATION&GROCERY	DEE-5571	05/18/79	CALIFORNIA
TOM PORTER AUTO SERVICE INC.	DEE-5668	05/18/79	NEW HAMPSHIRE
TONY'S TEXACO SERVICE	DEE-5601	05/18/79	NEW JERSEY
TOTTENHAM, JACK	DEE-5654	05/18/79	CONNECTICUT
TOWN GULF SERVICE	DEE-5702	05/18/79	RHODE ISLAND
TUCSON FUEL COMPANY	DXE-5554	05/18/79	CALIFORNIA
VICTOR PLAZA CAR WASH, INC.	DEE-5670	05/18/79	NEW HAMPSHIRE
VICTORIA MOBIL SERVICE	DEE-5593	05/18/79	CALIFORNIA
VILLAGE GARAGE	DEE-5648	05/18/79	MASSACHUSETTS
VITTI, ANGELO	DEE-5645	05/18/79	CONNECTICUT
WESCO SOUTHERN OIL, INC.	DXE-5720	05/18/79	GEORGIA
WEIK MOTORS	DEE-5686	05/18/79	CONNECTICUT
WOODCLIFF ANIMAL HOSPITAL	DEE-5551	05/18/79	CALIFORNIA
ZARDA BROTHERS DAIRY, INC.	DEE-5747	05/18/79	KANSAS

ITEMS RETRIEVED 593

BILLING CODE 6450-01-C

Date	Name and location of applicant	Case No.	Type of submission
5/14/79	Lucia Lodge, Monterey, California	DEE-5531	Price Exception (Section 212.93). If granted: Lucia Lodge would be granted an exception from the provisions of 10 CFR 212.93 which would permit the firm to increase its prices for motor gasoline.
5/14/79	New York Petroleum Corp., New Orleans, Louisiana	DRX-0169	Supplemental Order. If granted: The DOE would modify the ordering paragraphs of the Decision and Order which the DOE issued to New York Petroleum Corporation on January 19, 1979, with respect to the refund procedures.
5/14/79	Office of Enforcement (Guenther), Texas	DFF-0004	Request for Refund Procedures. If granted: The Office of Hearings and Appeals would implement the Special Refund Procedures pursuant to 10 CFR, Part 205, concerning Jack E. Guenther.
5/14/79	Port Petroleum, Shreveport, Louisiana	DEX-0167	Supplemental Order. If granted: The DOE would modify and clarify the ordering paragraphs of the Decision and Order which the DOE issued to Port Petroleum, Inc. on May 4, 1979.
5/14/79	Shell Oil Company, Houston, Texas	DEA-0401	Appeal of the Redirection Order issued on April 6, 1979. If granted: The ERA Redirection Order issued to Shell Oil Company on April 6, 1979, would be modified.
5/14/79	Union Oil Company of California, Los Angeles, California.	DEA-0399	Appeal to Redirection Order of April 9, 1979. If granted: The ERA Redirection Order issued to Union Oil Company of California on April 9, 1979, would be modified.
5/14/79	W. B. Jayred, Plaquemines Parish, Louisiana	DXE-5529	Extension of Relief granted in *Jayred, W. B.*, 2 DOE Par. (February 15, 1979). If granted: W. B. Jayred would be permitted to continue to sell the crude oil produced from the Delta #3 property, Stella Field, located in Plaquemines Parish, Louisiana, at upper tier ceiling prices.
5/15/79	Craft Petroleum Company, Wilkinson County, Mississippi.	DXE-4759	Extension of relief granted in *Craft Petroleum Co.*, 2 DOE Par. (December 12, 1978). If granted: Craft Petroleum Company would be permitted to continue selling crude oil produced from the Rosenblatt Lease, located in Wilkinson County, Mississippi, at upper tier ceiling prices.
5/15/79	Double "B" Oil, Inc., Wichita, Kansas	DEE-5070	Price Exception (Section 212.73). If granted: Double "B" Oil, Inc. would be permitted to sell the crude oil produced from the Hagerman Lease, located in Pawnee County, Kansas, at upper tier ceiling prices.
5/15/79	Exxon Company, U.S.A., Houston, Texas	DEA, DST, DES-0410 thru 0417.	Request for Stay and Request for Temporary Stay and Appeal of 8 Redirection Orders. If granted: Exxon would not be required to supply motor gasoline to 8 firms in accordance with the provisions of the Redirection Orders.
5/15/79	Johnson Oil Co., Inc., Salt Lake City, Utah	DES-0206	Request for Stay. If granted: Johnson Oil Co., Inc., would receive a stay from the requirement to purchase entitlements under the Old Oil Entitlements Program (10 CFR 211.67) during the months of April and May 1979, pending a determination on its Application for Exception.
5/15/79	Mid-Michigan Truck Service, Inc., Kalamazoo, Michigan.	DXE-5525	Price Exception (Section 211.25). If granted: Mid-Michigan Truck Service, Inc. would be granted an exception from 10 CFR 212.25 which would permit the firm to charge higher prices for motor gasoline.
5/15/79	Murray Oil Company, Marcum Oil Company, Ash Grove, Missouri, Savannah, Missouri.	DEX-0168	Supplemental Order. If granted: The Decision and Order issued to Murray Oil Company and Marcum Oil Company on May 8, 1979 (Case Nos. DES-2284; DES-2263) would be modified.
5/15/79	Pennzoil Producing Company, Houston, Texas	DXE-5523, DXE-5524.	Price Exception (Section 212.73). If granted: Pennzoil Producing Company would be permitted to sell the crude oil produced from the McGraw-Stevens and Woodruff Sand Units located in Mississippi, at market prices.
5/15/79	Sabo Oil Company, Topeka, Kansas	DEN-2467	Interim Decision and Order. If granted: Sinclair Refining Company would be directed to continue supplying Sabo Oil Company with motor gasoline.
5/15/79	Texas Oil and Gas Corporation, Corpus Christi, Texas.	DXE-5528	Extension of relief granted in *Texas Oil & Gas Corp.*, 2 DOE Par. (February 6, 1979). If granted: Texas Oil and Gas Corporation would be permitted to sell the crude oil produced from the Pete Rydolph "A" Lease, located in Victoria County, Texas, at upper tier ceiling prices.
5/16/79	Craft Petroleum Company, Jackson, Mississippi	DXE-5526, DXE-5527.	Extension of relief granted in *Craft Petroleum Co.*, 2 DOE Par. (February 12, 1979). If granted: Craft Petroleum Company would be permitted to continue to sell the crude oil produced from the Bedford and Hodges Leases, located in Franklin County, Mississippi, at upper tier ceiling prices.
5/16/79	O'Meara Brothers, New Orleans, Louisiana	DXE-5530	Extension of relief granted in *O'Meara Brothers*, 2 DOE Par. (January 9, 1979. If granted: O'Meara Brothers would be permitted to continue to sell the crude oil produced from the Louisiana State Lease 2192, Lake Fortuna Field, New Orleans, Louisiana, at upper tier ceiling prices.
5/17/79	Chevron, U.S.A., Inc., San Francisco, California	DEE-5818	Price Exception (Section 212.73). If granted: Chevron U.S.A., Inc., would be permitted to sell the crude oil produced from the Colonia Unit and State Lease PRC 735-1, West Montalvo Field, located in Ventura County, California at upper tier ceiling prices.
5/17/79	City of Long Beach, California, Long Beach, California.	DXE-5829	Extension of relief granted in *City of Long Beach, California*, 2 DOE Par. (March 14, 1979). If granted: City of Long Beach, California, would be permitted to continue selling the crude oil produced from the Fault Block II Unit, Wilmington Oil Field, located in Los Angeles, County, California, at upper tier ceiling prices.
5/17/79	Exxon Company, U.S.A., Washington, D.C.	DEA, DES, DST 0423 and 0424.	Appeal of Redirection Order, Request for Stay and Request for Temporary Stay. If granted: The Redirection Order issued by ERA Region VI on May 15, 1979, to Exxon Company, U.S.A. would be rescinded. The firm would also receive a Temporary Stay and a Stay of the Redirection Order and Exxon would be required to supply V-U-Inc. and Husky Oil Co.
5/17/79	Exxon Company, U.S.A., Washington, D.C.	DEA, DES, DST-0422.	Appeal of Redirection Order, Request for Stay, and Request for Temporary Stay. If granted: The Redirection Order issued by ERA Region VIII on May 15, 1979, to Exxon Company, U.S.A., would be rescinded and Exxon would be required to supply motor gasoline to the Spence Oil Company. The firm would also receive a Temporary Stay and a Stay of the Redirection Orders.
5/17/79	Natural Resources Defense Council, Inc., Washington, D.C..	DFA-0406	Appeal of Information Request Denial. If granted: Natural Resources Defense Council, Inc., would be granted access to certain DOE data in the possession of the Office of Energy Research concerning the Three Mile Island Nuclear Power Plant.
5/18/79	Justiss-Mears Oil Company, Inc., Jena, Louisiana	DXE-5533	Extension of relief granted in *Justiss-Mears Oil Co.*, 2 DOE Par. (March 14, 1979). If granted: Justiss-Mears Oil Co., Inc. would be permitted to continue to sell the crude oil produced from the #1 Saucier well at upper tier ceiling prices.
5/18/79	Kenneth L. Tipps, Denver, Colorado	DXE-5532	Extension of the relief granted in *Kenneth L. Tipps*, 2 DOE Par. (April 5, 1979). If granted: Kenneth L. Tipps would be permitted to continue to sell the crude oil produced from the Marick, 1-A property at upper tier ceiling prices.
5/18/79	Pierremont Petroleum Corporation, Shreveport, Louisiana.	DEE-5536	Price Exception (Section 212.73). If granted: Pierremont Petroleum Corporation would be permitted to sell the crude oil produced from the C. G. Henderson well at upper tier ceiling prices.
5/18/79	R and R Gas-Low, Bay Shore, New York	DEE-5542	Price Exception (Section 212.93). If granted: R and R Gas-low would be granted and exception from the provisions of 10 CFR 212.93 which would permit the firm to increase its prices for motor gasoline.
5/18/79	Thriftway Company, Farmington, New Mexico	DEE-5535	Allocation Exception (Section 211.65). If granted: Thriftway Company would be granted an exception to the provisions of 10 CFR 211.65 concerning the Buy/Sell Program.

Notices of Objection Received

[Week of May 11 Through May 18, 1979]

Date	Name and location of applicant	Case No.
5/15/79	Glickman, Inc., Wichita, Kansas	DEE-2211
5/15/79	E. B. Brooks, Jr., Dallas, Texas	DEE-2223
5/17/79	Craig Oil Company, Inc., Macon, Georgia	DEE-2466
5/17/79	Phillips & Munzel Shell, Ruskin, Florida	DEE-2925
5/18/79	West Side Distributing Co., Washington, D.C.	DEE-2749
5/18/79	American Agri-Fuels Corporation, Washington, D.C.	DEE-2179

Proposed Remedial Orders

5/15/79	Red Triangle Oil Company, San Francisco, California	DRO-0213
5/17/79	Lowe Oil Company, Kansas City, Missouri	DRO-0214

[FR Doc. 79-19568 Filed 6-22-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of May 18 Through May 25, 1979

Notice is hereby given that during the week of May 18, 1979 through May 25, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

June 18, 1979

Melvin Goldstein,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of May 18 through 25, 1979]

Date	Name and location of applicant	Case No.	Type of submission
5/18/79	M. J. Mitchell, Dallas, Texas	DXE-5534	Price Exception (Section 212.73). If granted: M. J. Mitchell would be permitted to continue to sell the crude oil produced from the Mitchell State Minnelusa Sand Unit, located in Campbell County, Wyoming, at stripper well prices.
5/18/79	Meason Operating Company, Natchez, Mississippi	DXE-5821	Extension of relief granted in *Meason Operating Company*, 3 DOE Par. —— (January 5, 1979). If granted: Meason Operating Company would be permitted to continue to sell the crude oil produced from the Arnold Perry Unit #1, located in Wilkinson County, Mississippi, at upper tier ceiling prices.
5/18/79	Vinson & Elkins, Washington, D.C	DFA-0409	Appeal of Information Request Denial. If granted: The DOE's April 17, 1979 Information Request Denial would be rescinded and Vinson and Elkins would receive access to additional DOE data concerning the transfer price issue (Section 212.84).
5/21/79	Diamond Shamrock Corp., Amarillo, Texas	DEA-0420	Appeal of ERA Temporary Assignment Order. If granted: The April 30, 1979 Temporary Assignment Order concerning the Spruce Oil Company which was issued by ERA Region VIII would be rescinded.
5/22/79	Champlin Petroleum Company, Fort Worth, Texas	DXE-5822	Extension of relief granted in *Champlin Petroleum Company*, 3 DOE Par. —— (April 3, 1979). If granted: Champlin Petroleum Company would be permitted to continue to sell crude oil produced from the Sutton Property, located in Oklahoma County, Oklahoma, at upper tier ceiling prices.
5/22/79	Pride Refining, Inc., Washington, D.C	DEE-5823	Allocation Exception. If granted: Pride Refining, Inc. would receive an exception from the provisions of 10 CFR 211.65 which would provide the firm with an additional allocation of crude oil for the period April 1, 1979 through September 30, 1979.
5/22/79	Sabre Refining, Inc., Bakersfield, California	DEX-0170	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Sabre Refining, Inc. during its fiscal year ended October 31, 1978 in order to determine whether the level of relief accorded the firm was appropriate.
5/23/79	Data Technology Industries, Riverdale, Maryland	DFA-0435	Appeal of an Information Request Denial. If granted: The DOE's May 7, 1979 Information Request Denial would be rescinded and Data Technology Industries would have access to a copy of the technical proposal submitted by Calculon Operating Services Corporation.
5/23/79	Heil-Quaker Corporation, Nashville, Tennessee	DEE-5848	Exception from the Energy Conservation Program Test Procedures (10 CFR, Part 430). If granted: Heil-Quaker Corporation would receive an exception from the provisions of 10 CFR, Part 430 with regard to the test procedures prescribed for induced draft gas furnaces.
5/23/79	Heil-Quaker Corporation, Nashville, Tennessee	DES-5955	Request for Stay (10 CFR, Part 430). If granted: Heil-Quaker Corporation would receive a stay of the test procedure requirements set forth in 10 CFR, Part 430 applicable to induced draft gas furnaces.
5/23/79	Thomas B. Cochran, Washington, D.C	DFA-0421	Appeal of an Information Request Denial. If granted: The DOE's May 10, 1979 Information Request Denial would be rescinded and Thomas B. Cochran, Natural Resources Defense Council, would have access to the entire classified version and related Exhibits of the OIG report identified as "August 8, 1977, NUMEC-Related Congressional Hearing."
5/24/79	Chevron U.S.A. Inc., San Francisco, California	DEE-5917	Price Exception (Section 212.83). If granted: Chevron U.S.A. Inc. would be granted an exception from the provisions of 10 CFR 212.83 to permit the firm to exclude from calculations of increased costs applicable to covered products the allocated cost increases of carbon dioxide.
5/24/79	Exxon Company, U.S.A., Houston, Texas	DRS-0210, DST-0210.	Request for Stay; Request for Temporary Stay. If granted: Exxon Company, U.S.A. would be granted a temporary stay and a stay of the provisions of the Interim Remedial Order issued by DOE's Region I (Case No. REXD00101) on May 16, 1979, regarding the firm's supply obligations for motor gasoline during the months of March, April and May 1979.
5/24/79	Sigmor Refining Company, Washington, D.C	DMR-0054	Request for Modification/Recission. If granted: The Decision and Order issued on May 3, 1979 to Cities Service Company would be rescinded and the Economic Regulatory Administration's January 31, 1979 Order directing Cities Service to sell crude oil to Sigmor would be reinstated.
5/25/79	Pat Broudy, Laguna Niguel, California	DFA-0436	Appeal of an Information Request Denial. If granted: The DOE's May 11, 1979 Information Request Denial would be rescinded and Pat Broudy would receive access to confidential DOE documents identified as WT-1510, ITR-1505, and ITR-1167.
5/25/79	Exxon Company, U.S.A., Washington, D.C	DEA-0426 thru DEA-0434, DES-0426 thru DES-0434, DST-0426 thru DST-0434.	Appeal of ERA Decision and Order; Request for Stay and Temporary Stay. If granted: The Economic Regulatory Administration Region IV's May 18 and 21, 1979 Decision and Order regarding Exxon Company's motor gasoline supply obligations to nine Fina jobbers would be rescinded. Exxon Company would receive a temporary stay and stay of the Decision and Order pending a final determination on its Appeal.

Notices of Objection Received

[Week of 5/18/79 to 5/25/79]

Date	Name and location of applicant	Case No.
5/22/79	Kahan, Louis, Tulsa, Oklahoma	DEE-2805, DEE-2806
5/23/79	Boulder Valley Oil Company, Lafayette, Colorado	DEE-2495
5/24/79	Apollo Oil Company, Mountain View, California	DEE-3338
5/24/79	Phillips Petroleum Company, Bartlesville, Oklahoma	DEE-1907
5/25/79	Commonwealth Oil & Refining Co., Inc., Roslyn, New York	DEE-2245
5/25/79	Energy Cooperatives, Inc., Houston, Texas	DEE-2816

Proposed Remedial Orders

5/21/79	RPL Oil Company, Inc., Midland, Texas	DRO-0218
5/22/79	Michaelson Producing Company, Midland, Texas	DRO-0217
5/22/79	Graham, Bill J., Seminole, Oklahoma	DRO-0216
5/24/79	Texas City Refining, Inc., Washington, D.C	DRO-0219
5/24/79	Franklin Oil Company, Boise, Idaho	DRO-0220

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LIST OF CASES INVOLVING THE STANDBY PETROLEUM PRODUCT ALLOCATION REGULATIONS FOR MOTOR GASOLINE

WEEK OF MAY 18 THROUGH MAY 25, 1979

IF GRANTED: THE FOLLOWING FIRMS WOULD RECIEVE AN EXCEPTION FROM THE ACTIVATION OF THE STANDBY PETROLEUM PRODUCT ALLOCATION REGULATIONS WITH RESPECT TO MOTOR GASOLINE.

05/18/79

A & J AMOCO	DEE-5624	05/18/79	MASSACHUSETTS
A-1 AUTO SERVICE	DEE-5631	05/18/79	CONNECTICUT
A-1 GULF SERVICE	DEE-5655	05/18/79	MASSACHUSETTS
AUGY'S GULF SERVICE	DEE-5650	05/18/79	MASSACHUSETTS
AUTO SERVICE CENTER	DEE-5649	05/18/79	MASSACHUSETTS
BAILEY'S YOUNG WORLD	DEE-5608	05/18/79	CALIFORNIA
BEN'S FILLING STATION	DEE-5619	05/18/79	MAINE
BLANCHFIELD'S ARCO, INC.	DEE-5573	05/18/79	DELEWARE
BOB'S GULF	DEE-5640	05/18/79	CONNECTICUT
BRADFORD GULF	DEE-5703	05/18/79	RHODE ISLAND
BRADFORD HEIGHTS GETTY	DEE-5636	05/18/79	CONNECTICUT
C.H.S. ENTERPRISES, INC.	DEE-5616	05/18/79	CALIFORNIA
CANTORE'S TEXACO	DEE-5766	05/18/79	CALIFORNIA
CHESTNUT HILL GULF	DEE-5634	05/18/79	MASSACHUSETTS
CITY OF SAN BUENAVENTURA, CA.	DEE-5587	05/18/79	CALIFORNIA
CLIFF'S GARAGE	DEE-5673	05/18/79	CONNECTICUT
COAST CIRCLE ARCO	DEE-5612	05/18/79	CALIFORNIA
CONSOLIDATED LEASING CORP.	DEE-5614	05/18/79	CALIFORNIA
CROCKER'S TRANSPORTATION INC.	DEE-5618	05/18/79	MASSACHUSETTS
CURNIER, DAVID L.	DEE-5622	05/18/79	VERMONT
CURRIER'S GARAGE	DEE-5672	05/18/79	NEW HAMPSHIRE
CURT'S CHEVRON	DEE-5607	05/18/79	CALIFORNIA
DALE'S CAR CARE	DEE-5590	05/18/79	OHIO
DAN'S GROCERY CORPORATION	DEE-5588	05/18/79	NEW YORK
DANBY'S HOLIDAY GULF	DEE-5651	05/18/79	CONNECTICUT
DEPALMA'S GARAGE	DEE-5668	05/18/79	CONNECTICUT
DERBY TOWN MARKET	DEE-5679	05/18/79	VERMONT
DIPIETRO, SALVATORE	DEE-5691	05/18/79	RHODE ISLAND
DIXIE ENTERPRISES	DEE-5595	05/18/79	CALIFORNIA
DOMINICO, NATALE	DEE-5630	05/18/79	MASSACHUSETTS
DON'S GULF SERVICE	DEE-5644	05/18/79	CONNECTICUT
DON'S MARKET, INC.	DEE-5680	05/18/79	NEW HAMPSHIRE
DON'S MOBIL	DEE-5661	05/18/79	VERMONT
DRUM HILL GULF	DEE-5635	05/18/79	MASSACHUSETTS
DUBE'S CASH MARKET	DEE-5639	05/18/79	NEW HAMPSHIRE
DUSTIN'S GULF	DEE-5625	05/18/79	MASSACHUSETTS
E & D SELF SERVICE MARKET	DEE-5835	05/18/79	MARYLAND
E.C. FEAGAN, INC.	DEE-5598	05/18/79	TEXAS
ERNIE & SON	DEE-5623	05/18/79	MASSACHUSETTS
ETHEL SHAFER'S MINI MARKET	DEE-5574	05/18/79	PENNSYLVANIA
FAIRHAVEN SUNOCO	DEE-5701	05/18/79	MASSACHUSETTS
FOX STANDARD SERVICE	DEE-5594	05/18/79	WISCONSIN
FRANKLIN PARK SERVICE	DEE-5700	05/18/79	MASSACHUSETTS
GARNETT, THERESA	DEE-5666	05/18/79	MAINE
GEORGE WOLF, INC.	DEE-5662	05/18/79	CONNECTICUT
GERMANO'S EXXON	DEE-5674	05/18/79	MASSACHUSETTS
GOV. FRANCIS MOBIL	DEE-5697	05/18/79	RHODE ISLAND
GREENFIELD'S SERVICE	DEE-5647	05/18/79	CONNECTICUT
GREENWICH GULF CENTER	DEE-5682	05/18/79	CONNECTICUT
GROVELAND SALES & SERVICE	DEE-5620	05/18/79	MASSACHUSETTS
H.C. PETROLEUM, INC.	DEE-5638	05/18/79	RHODE ISLAND
HAMILTON TEST SYSTEMS CA., INC	DEE-5555	05/18/79	CALIFORNIA
HAMILTON VILLAGE GULF	DEE-5626	05/18/79	MASSACHUSETTS
HAVILAND SERVICE STATION	DEE-5664	05/18/79	VERMONT
HESTER OIL CO.	DEE-5591	05/18/79	NEW MEXICO
HINSON	DEE-5602	05/18/79	FLORIDA
HOP-N-SHOP #1	DEE-5605	05/18/79	LOUISIANA
HUNTINGTON FILLING STATION, INC	DEE-5646	05/18/79	CONNECTICUT
HY'S SERVICE CENTER, INC.	DEE-5757	05/18/79	CONNECTICUT
J.J. HAPGOOD STORE	DEE-5677	05/18/79	VERMONT
JACK'S MOBIL	DEE-5909	05/18/79	MINNESOTA
JIM'S SERVICE STATION, INC.	DEE-5621	05/18/79	MASSACHUSETTS
JOHNSON, GEORGE	DEE-5548	05/18/79	ALABAMA
JOHNSON'S GULF	DEE-5629	05/18/79	NEW HAMPSHIRE
JON'S MOBIL	DEE-5637	05/18/79	MASSACHUSETTS
JONES' CORNER	DEE-5586	05/18/79	INDIANA
JOSEPH ANASTASIO	DEE-5669	05/18/79	MAINE
KANN'S SS	DEE-5676	05/18/79	MASSACHUSETTS
KINMUNDY OIL COMPANY	DEE-5549	05/18/79	ILLINOIS
KNIGHTS OIL & HEATING	DEE-5642	05/18/79	CONNECTICUT
KRAFT, INC.	DEE-5900	05/18/79	CALIFORNIA
LARRY'S MOBIL	DEE-5692	05/18/79	MASSACHUSETTS
LASALLE SERVICE	DEE-5694	05/18/79	RHODE ISLAND
LASKEY, FRANK	DEE-5671	05/18/79	MAINE
LOJEK'S GAS & OIL	DEE-5611	05/18/79	OHIO
M & C SERVICE	DEE-5683	05/18/79	CONNECTICUT
M & R SERVICE STATION, INC	DEE-5575	05/18/79	NEW JERSEY
MAIN & BRIDGE MOBIL	DEE-5663	05/18/79	CONNECTICUT
MARSHALL'S SERVICE CENTER, INC.	DEE-5685	05/18/79	CONNECTICUT
MARSHAND, LEONARD A.	DEE-5613	05/18/79	OHIO
MARY'S MOBIL	DEE-5693	05/18/79	MASSACHUSETTS
MCLEOD, MASON	DEE-5600	05/18/79	FLORIDA
METAIRIE ROAD GULF	DEE-5563	05/18/79	LOUISIANA
MIDDLESEX AUTO CENTER	DEE-5690	05/18/79	CONNECTICUT
MIKE'S ARCO MINI MARKET	DEE-5592	05/18/79	CALIFORNIA
MILT'S HESS STATION	DEE-5556	05/18/79	MARYLAND
MOBIL SELF SERVICE	DEE-5678	05/18/79	MASSACHUSETTS
MONTAGUE, DAVID R.	DEE-5656	05/18/79	CONNECTICUT
MONTEBELLO LAND & WATER CO.	DEE-5572	05/18/79	CALIFORNIA
MULLIN'S COUNTRY MARKET	DEE-5609	05/18/79	DELEWARE
NAVIT TIRE & BATTERY SHOP	DEE-5659	05/18/79	RHODE ISLAND
NEAL'S TEXACO	DEE-5610	05/18/79	CALIFORNIA
NESBITT'S SERVICE, INC.	DEE-5698	05/18/79	MASSACHUSETTS
NEWTON'S EXXON	DEE-5689	05/18/79	CONNECTICUT
NORRIS SUPPLY COMPANY, INC.	DEE-5596	05/18/79	NEVADA
NORTHERN PETROLEUM INC.	DEE-5696	05/18/79	CONNECTICUT
NORTHRUP, LOUIS	DEE-5660	05/18/79	RHODE ISLAND
ODENTON AMOCO	DEE-5585	05/18/79	MARYLAND
OLSON'S EXXON SERVICE STATION	DEE-5589	05/18/79	ARKANSAS
OLYMPIC INDUSTRIAL CLINICS	DEE-5615	05/18/79	CALIFORNIA
P & J SERVICE	DEE-5657	05/18/79	MASSACHUSETTS
PARK AVENUE EXXON	DEE-5675	05/18/79	CONNECTICUT
PARK AVENUE MOBIL	DEE-5695	05/18/79	MASSACHUSETTS
PEARMAN STILLER OIL CO., INC.	DEE-5564	05/18/79	TEXAS
PUCINO, EDWARD F.	DEE-5627	05/18/79	RHODE ISLAND

R.J. MURRAY TEXACO	DEE-5681	05/18/79	NEW HAMPSHIRE
RAINBOW OILS OF SAN ANGELO	DEE-5501	05/18/79	TEXAS
RAY PEPPELMAN, INC.	DEE-5584	05/18/79	PENNSYLVANIA
RAY'S GULF SERVICE	DEE-5658	05/18/79	MASSACHUSETTS
RIPLEY & FLETCHER CO. #28	DEE-5633	05/18/79	MAINE
RIPLEY & FLETCHER CO. #52	DEE-5632	05/18/79	NEW HAMPSHIRE
RIVERSIDE SHELL	DEE-5605	05/18/79	MASSACHUSETTS
SAN FRAN. PRODUCE TERMINAL OFF	DEE-5552	05/18/79	CALIFORNIA
SCOTT OIL CO.	DEE-5604	05/18/79	TENNESSEE
SEABORN WRIGHT	DEE-5920	05/18/79	CONNECTICUT
SECUNDI BROS. SERVICE STATION	DEE-5643	05/18/79	CONNECTICUT
SELF SERVICE	DEE-5688	05/18/79	RHODE ISLAND
SHEEHAN OIL COMPANY	DEE-5561	05/18/79	OKLAHOMA
SILVA'S GULF	DEE-5652	05/18/79	MASSACHUSETTS
SINCLAIR OIL CORPORATION	DEE-5522	05/18/79	WYOMING
SMITHERS TRANSPORTATION RESEAR	DEE-5583	05/18/79	TEXAS
SOUTH RIDGEWOOD AMOCO	DEE-5606	05/18/79	FLORIDA
SPIKES SERVICE STATION	DEE-5653	05/18/79	CONNECTICUT
STAN'S GULF	DEE-5641	05/18/79	MAINE
STEPHENSON CHEVRON	DEE-5599	05/18/79	FLORIDA
SUMMIT CAR CARE CENTER	DXE-5786	05/18/79	MISSOURI
THOMAS' SERVICESTATION&GROCERY	DEE-5571	05/18/79	CALIFORNIA
TOM PORTER AUTO SERVICE INC.	DEE-5668	05/18/79	NEW HAMPSHIRE
TONY'S TEXACO SERVICE	DEE-5601	05/18/79	NEW JERSEY
TOTTENHAM, JACK	DEE-5654	05/18/79	CONNECTICUT
TOWN GULF SERVICE	DEE-5702	05/18/79	RHODE ISLAND
TUCSON FUEL COMPANY	DXE-5554	05/18/79	CALIFORNIA
VICTOR PLAZA CAR WASH, INC.	DEE-5670	05/18/79	NEW HAMPSHIRE
VICTORIA MOBIL SERVICE	DEE-5593	05/18/79	CALIFORNIA
VILLAGE GARAGE	DEE-5648	05/18/79	MASSACHUSETTS
VITTI, ANGELO	DEE-5645	05/18/79	CONNECTICUT
WEBCO SOUTHERN OIL, INC.	DXE-5720	05/18/79	GEORGIA
WEIR MOTORS	DEE-5686	05/18/79	CONNECTICUT
WOODCLIFF ANIMAL HOSPITAL	DEE-5551	05/18/79	CALIFORNIA
ZARDA BROTHERS DAIRY, INC.	DEE-5747	05/18/79	KANSAS

05/21/79

ABBOTT FORD, INC.	DEE-5951	05/21/79	CALIFORNIA
ABNEY'S AMOCO SERVICE CENTER	DEE-5830	05/21/79	DISTRICT OF COLUMBIA
AHLES OIL COMPANY	DEE-5832	05/21/79	MINNESOTA
AL WALKER UNION 76	DEE-5953	05/21/79	CALIFORNIA
ANNE-CARA OIL COMPANY, INC.	DEE-5849	05/21/79	MASSACHUSETTS
ART'S EXXON	DEE-4522	05/21/79	MAINE
BENSON GENERAL STORE	DEE-5851	05/21/79	VERMONT
BOARD OF SUP.,SAN BERNADINO	DEE-5557	05/21/79	CALIFORNIA
BOB'S GULF SERVICE	DEE-5915	05/21/79	MAINE
BONURA EXXON	DEE-5765	05/21/79	CALIFORNIA
BRADFORD SHELL SERVICE	DEE-5848	05/21/79	MASSACHUSETTS
BROWARD PURE OIL	DEE-5829	05/21/79	FLORIDA
BROWN'S GAS STATION	DEE-5817	05/21/79	VIRGINIA
CABLE CAR WASH	DEE-5795	05/21/79	CALIFORNIA
CARL'S GLUD SERVICE	DEE-5796	05/21/79	LOUISIANA
CARY'S CHEVRON	DEE-6151	05/21/79	KENTUCKY
CASCADE METAL CORP.	DEE-5814	05/21/79	CALIFORNIA
CENTURY SHELL	DEE-5828	05/21/79	CALIFORNIA
CIVIC CENTER MOBIL	DEE-5833	05/21/79	CALIFORNIA
COUGLEN OIL COMPANY	DEE-5797	05/21/79	SOUTH CAROLINA
CONDE'S TEXACO STATION	DEE-5853	05/21/79	PENNSYLVANIA
DOWNTOWN CAR CARE CENTER	DEE-5846	05/21/79	TEXAS
DUNN FUELS	DEE-5842	05/21/79	MICHIGAN
DUVALL, THERMON JR.	DEE-5825	05/21/79	MISSISSIPPI
FARINA AUTO SERVICE	DEE-5824	05/21/79	NEW YORK
FARMERSVILLE GULF	DEE-5845	05/21/79	TEXAS
FRANKLIN OIL COMPANY	DEE-5839	05/21/79	IDAHO
FREDERICKSBURG AMOCO	DEE-5798	05/21/79	VIRGINIA
G & G MOBIL	DEE-5742	05/21/79	CALIFORNIA
GARY'S SERVICE STATION	DEE-5799	05/21/79	PENNSYLVANIA
GAS 'N SAVE	DEE-5758	05/21/79	OHIO
GATEWAY TEXACO	DEE-5550	05/21/79	CALIFORNIA
GREEN'S GAS-GO	DEE-5800	05/21/79	NEW JERSEY
HANDEYSIDE OIL CORPORATION	DEE-6145	05/21/79	WISCONSIN
HAWK OIL COMPANY	DEE-5801	05/21/79	PENNSYLVANIA
HILLTOP STANDARD	DEE-5802	05/21/79	SOUTH DAKOTA
HUMPHREY'S SERVICE	DEE-5562	05/21/79	MASSACHUSETTS
IRV'S SERVICE CENTER	DXE-5543	05/21/79	LOUISIANA
JIMMY COOKES TEXACO	DEE-5803	05/21/79	MARYLAND
LAURIA'S EXXON	DEE-5804	05/21/79	MASSACHUSETTS
MCGUVERN AUTOMOTIVE SERVICE	DEE-5847	05/21/79	MASSACHUSETTS
MCMAHON, BRIAN	DEE-5816	05/21/79	NEW YORK
MIDTOWN GULF	DEE-5836	05/21/79	KENTUCKY
MORGAN, J. ED	DEE-5837	05/21/79	TEXAS
MURRAY OIL COMPANY	DXE-5898	05/21/79	MISSOURI
NOLA OIL COMPANY	DEE-5852	05/21/79	LOUISIANA
NORTH KINGSTON SHELL	DEE-3820	05/21/79	RHODE ISLAND
NYACK INC.	DEE-5954	05/21/79	CALIFORNIA
OROVILLE AREA CHAM OF COMMERCE	DEE-5558	05/21/79	CALIFORNIA
PASADENA SHELL	DEE-5950	05/21/79	CALIFORNIA
PATTERSON TEXACO	DEE-5843	05/21/79	TEXAS
PETERSON, HENRY M.	DEE-5831	05/21/79	WASHINGTON
PHIL'S GULF & SERVICE	DEE-5806	05/21/79	MAINE
PORT ALLEN SHELL	DEE-5807	05/21/79	LOUISIANA
QUALITY OIL COMPANY	DEE-5841	05/21/79	NORTH CAROLINA
R.C. MICHEL CO.	DEE-5808	05/21/79	PENNSYLVANIA
RALPH M. PARSONS CO.	DEE-5827	05/21/79	CALIFORNIA
REYNOLDS BROTHERS OIL CO. INC.	DEE-5899	05/21/79	TENNESSEE
ROLAND'S GULF	DEE-5844	05/21/79	TEXAS
RUTHERFORD LATHING CO. INC.	DEE-5160	05/21/79	CALIFORNIA
SNYDER'S MINI MART CO., INC.	DEE-5577	05/21/79	PENNSYLVANIA
SNYDER'S MINI MART CO., INC.	DEE-5840	05/21/79	PENNSYLVANIA
STURGIS OIL COMPANY, INC.	DEE-5810	05/21/79	ALABAMA
SUNSET SHELL	DEE-5811	05/21/79	FLORIDA
TEAL, W.H.	DEE-5741	05/21/79	FLORIDA
TIME SAVER STORES, INC.	DEE-5880	05/21/79	LOUISIANA
TYLER TEXACO STATION	DEE-5826	05/21/79	CALIFORNIA
UNIVERSITY GULF	DEE-5553	05/21/79	VIRGINIA
WARD HICKMAN CHEVRON	DEE-5952	05/21/79	CALIFORNIA
WHITE ARROW SERVICE STATION	DEE-5812	05/21/79	NEW YORK
YUEN'S EXXON	DEE-5792	05/21/79	DISTRICT OF COLUMBIA
128 TIRE SALES	DEE-5850	05/21/79	MASSACHUSETTS

05/22/79

ABSTON SHELL	DEE-5834	05/22/79	ALABAMA
ABZAKH, MOHAMMED	DEE-5762	05/22/79	CALIFORNIA
ARTESIA PARAMOUNT AMCO	DEE-5764	05/22/79	CALIFORNIA
C&D CORP., INC.	DEE-6235	05/22/79	MARYLAND
CHEVRON CAR WASH	DEE-5767	05/22/79	CONNECTICUT

CINCINNATI-VULCAN CO., INC.	DEE-5907	05/22/79	OHIO
CONTINENTAL CAR WASH	DEE-5768	05/22/79	CALIFORNIA
DUMONT CO-OP ASSN.	DEE-5769	05/22/79	MINNESOTA
ECURIE SHIRLEE CORP.	DEE-5770	05/22/79	CALIFORNIA
EXETER COMPANY	DEE-5902	05/22/79	COLORADO
EXTON ARCO	DEE-5908	05/22/79	PENNSYLVANIA
FERKELL, DOC	DEE-5771	05/22/79	KENTUCKY
GEORGE'S TIRE & AUTO CENTER	DEE-5772	05/22/79	FLORIDA
H & H MANHATTAN SHELL	DXE-6137	05/22/79	NEW YORK
HAWTHORNE MAZDA	DEE-5773	05/22/79	CALIFORNIA
HELTNE'S OIL CO.	DEE-5774	05/22/79	MONTANA
HIGHWAY PETROLEUM SALES, INC.	DEE-5815	05/22/79	MARYLAND
IND. PETRO. ASSOC.-MTN. STATES	DEE-5904	05/22/79	COLORADO
KILGORE OIL COMPANY	DEE-5910	05/22/79	NORTH CAROLINA
LEROY RHODES OIL CO.	DEE-5776	05/22/79	NORTH CAROLINA
LITTONS AMOCO	DEE-5777	05/22/79	MARYLAND
LYNN, JOHN R.	DEE-5778	05/22/79	VIRGINIA
MCSPADDEN PETROLEUM, INC.	DEE-5779	05/22/79	OKLAHOMA
MILLER, RAY	DEE-5977	05/22/79	NEW JERSEY
MORELAND BROTHERS, INC.	DEE-5780	05/22/79	CALIFORNIA
OKLAHOMA REFINING CO.	DEE-5901	05/22/79	DISTRICT OF COLUMBIA
PACKAGING SERVICES	DEE-5781	05/22/79	CALIFORNIA
PECK'S ARCO MINI MARKET	DEE-5911	05/22/79	CALIFORNIA
PENCO OIL CO.	DEE-5760	05/22/79	TEXAS
RANCHO MURIETA PROPERTIES, INC	DEE-5782	05/22/79	CALIFORNIA
RANDY'S 66 SERVICE CENTER	DEE-5783	05/22/79	ILLINOIS
RON'S SHELL SERVICE, INC.	DEE-5912	05/22/79	CALIFORNIA
STADIUM AMOCO	DEE-6076	05/22/79	MARYLAND
STEVENS OIL COMPANY	DEE-5785	05/22/79	NEW MEXICO
TOLLISON'S ARCO	DEE-5788	05/22/79	CALIFORNIA
TWIN STATE OIL CO OF TABOR CIT	DEE-5759	05/22/79	NORTH CAROLINA
UNITED COOPERATIVES	DEE-5981	05/22/79	MISSOURI
WARD, RAYMOND A.	DEE-5790	05/22/79	ALABAMA
WOLTER WHOLESALE COMPANY	DEE-5791	05/22/79	IOWA

05/23/79

AIR CONDITIONING SYSTEMS	DEE-5871	05/23/79	CALIFORNIA
ALUMA-KOOL ALUMINUM PRODUCTS	DEE-5859	05/23/79	CALIFORNIA
B & B OIL COMPANY, INC.	DEE-5854	05/23/79	WASHINGTON
BARNES & RODGERS, INC.	DEE-5914	05/23/79	CALIFORNIA
BATES SHELL	DEE-5866	05/23/79	CALIFORNIA
BIRDWELL,C. O.	DEE-5867	05/23/79	TENNESSEE
BLACKWELL OIL COMPANY	DEE-5887	05/23/79	COLORADO
BOB ERWIN COMPANY, INC.	DEE-5876	05/23/79	WISCONSIN
BONNAFONS, L.J.	DXE-5983	05/23/79	LOUISIANA
BRITSCH, INC.	DEE-5873	05/23/79	OHIO
BURCH THOMAS, INC.	DEE-5864	05/23/79	OHIO
CENTRAL CITY SHELL	DXE-5889	05/23/79	MISSOURI
CLYDE BEATTY-COLE BROS.CIRCUS	DEE-5864	05/23/79	FLORIDA
COLEMAN'S SERVICE	DEE-5943	05/23/79	MINNESOTA
COLSTRIP TOWN PUMP	DEE-5887	05/23/79	MONTANA
COUNTRY FOOD STORES	DEE-5957	05/23/79	NORTH CAROLINA
DAVE'S MOBIL	DEE-5861	05/23/79	CALIFORNIA
DEL PROPERTIES	DEE-5857	05/23/79	CALIFORNIA
ENTRADA ARCO	DEE-5958	05/23/79	CALIFORNIA
FERNDALE SHELL	DEE-5976	05/23/79	MARYLAND
FRANK BOWER CHEVRON	DEE-5906	05/23/79	CALIFORNIA
HASTEN & DEAN	DEE-5894	05/23/79	ALABAMA
HOWARD, BRUCE	DEE-5893	05/23/79	CALIFORNIA
HOXSIE MOBIL	DEE-5867	05/23/79	CALIFORNIA
INDUSTRIAL TURF, INC.	DEE-5775	05/23/79	CALIFORNIA
J & B MOBIL	DEE-5882	05/23/79	CALIFORNIA
JOHN FLUCK'S MINI MARKET	DEE-5877	05/23/79	PENNSYLVANIA
JOHN'S AUTOMOTIVE MOBIL	DEE-5878	05/23/79	CALIFORNIA
KILGORE OIL CO.	DEE-5874	05/23/79	NORTH CAROLINA
LITHIA GULF SERVICE	DEE-5868	05/23/79	GEORGIA
LITTLE JOE'S MOBIL SERVICE	DEE-5855	05/23/79	CALIFORNIA
LITTLETON, PAUL	DEE-5872	05/23/79	CALIFORNIA
LONG ISLAND GAS RETAILERS ASS.	DEE-5858	05/23/79	NEW YORK
MULKENTINE, ROBERT R.L.	DEE-5879	05/23/79	WISCONSIN
NEW INTERAMA SERVICE CENTER	DEE-5869	05/23/79	FLORIDA
OMER'S SHELL SERVICE	DEE-5892	05/23/79	CALIFORNIA
PANERO, J.A.	DEE-5860	05/23/79	CALIFORNIA
PASSPORT MARINA	DEE-5885	05/23/79	FLORIDA
POPE OIL CO.	DEE-5870	05/23/79	NORTH CAROLINA
REDFORD CHEVRON	DEE-5875	05/23/79	INDIANA
RUSSELL'S EXXON SERVICE STATIO	DEE-5936	05/23/79	CALIFORNIA
SCHIAVON'S ARCO	DEE-5890	05/23/79	CALIFORNIA
SCOTTSDALE SERVICE CENTER	DEE-5895	05/23/79	NEBRASKA
SERVICE OIL OF MONROE, INC.	DEE-5865	05/23/79	NORTH CAROLINA
SHELL OIL COMPANY	DEE-5891	05/23/79	TEXAS
SOUTHLAND CORPORATION	DEE-5856	05/23/79	VIRGINIA
SOUTHWEST RESEARCH INSTITUTE	DEE-5896	05/23/79	TEXAS
TOMALES GARAGE & MACHINE SHOP	DEE-5862	05/23/79	CALIFORNIA
TROY INVESTMENT FUND	DEE-5959	05/23/79	CALIFORNIA

05/24/79

AFFILIATED BROKERS, INC.	DEE-5949	05/24/79	CALIFORNIA
AWADS MOBIL	DEE-5941	05/24/79	CALIFORNIA
BAKER CONOCO	DEE-5934	05/24/79	TEXAS
BASILE, R.L. & SALDI, J.A.	DEE-5913	05/24/79	MASSACHUSETTS
CALFEE'S MINUTE MARKET	DXE-5982	05/24/79	GEORGIA
COLLINS CHEVRON SERVICE	DEE-5903	05/24/79	FLORIDA
COLONIAL OIL CO.	DXE-5733	05/24/79	VIRGINIA
DERANGI'S SHELL SERVICE	DEE-5921	05/24/79	CALIFORNIA
E.L. YEAGER CONSTRUCT. CO.,INC	DEE-5939	05/24/79	CALIFORNIA
ELK STONE	DEE-5948	05/24/79	TEXAS
JEFF MAGNA'S MOBIL SERVICE	DEE-5920	05/24/79	CALIFORNIA
LINCOLN LAND OIL COMPANY	DEE-5923	05/24/79	ILLINOIS
LITTLE TUR CAR WASH	DEE-5919	05/24/79	CALIFORNIA
MAC'S AMOCO	DEE-5922	05/24/79	TEXAS
MARINA CAR WASH	DEE-5946	05/24/79	CALIFORNIA
MC DANIELS GROCERY & MEAT MKT	DEE-5933	05/24/79	TEXAS
MCGREGOR OIL COMPANY	DEE-5942	05/24/79	MICHIGAN
MOTORBOAT & OFFSHORE FUELS,INC	DEE-5932	05/24/79	TEXAS
MURPHY GRIMMETT & CO.	DEE-5924	05/24/79	NEVADA
NOMO'S ARCO SERVICE	DEE-5937	05/24/79	CALIFORNIA
NORTHROP OIL CO.	DEE-5938	05/24/79	ILLINOIS
PALM OIL CO., INC.	DXE-5897	05/24/79	CALIFORNIA
PATRIOT GAS & SALES CORP.	DEE-5945	05/24/79	MASSACHUSETTS
PETER H. CLARK, INC.	DEE-5927	05/24/79	RHODE ISLAND
PORTLAND SKELLY	DEE-5947	05/24/79	OKLAHOMA
WIGG'S GAS & GROCERY	DEE-5930	05/24/79	TEXAS
RIVEROAKS GULF	DEE-5925	05/24/79	LOUISIANA
ROSS SHELL SERVICE	DEE-5926	05/24/79	CALIFORNIA
RUDI'S KWIK GAS N' WASH	DEE-5931	05/24/79	TEXAS

W.G. ROBERTS OIL, INC.	DEE-5940	05/24/79	NEW MEXICO
WALT & BILL CHEVRON	DEE-5065	05/24/79	MASSACHUSETTS

05/25/79

ABSTON, JAMES W.	DEE-5960	05/25/79	ARKANSAS
ACME RUBBISH	DEE-5965	05/25/79	CALIFORNIA
ADLER LEDOUX TIRE & SUPPLY, INC	DEE-5964	05/25/79	LOUISIANA
AIRE SHEET METAL, INC.	DEE-5794	05/25/79	CALIFORNIA
BERG'S SHELL SERVICE	DEE-596A	05/25/79	OREGON
CHARLIE'S STANDARD SERVICE	DEE-4395	05/25/79	MISSOURI
CHEATHAM OIL COMPANY	DEE-5597	05/25/79	IOWA
CLARK, STANLEY	DEE-5986	05/25/79	CALIFORNIA
DICK'S ARCO MINI-MART & GAS	DEE-5740	05/25/79	PENNSYLVANIA
EITZMAN OIL CO.	DEE-5967	05/25/79	IDAHO
GATEWAY TEXACO	DEE-5975	05/25/79	CALIFORNIA
GORDON'S STANDARD STATION	DEE-5944	05/25/79	WISCONSIN
HOLLYPARK CAR WASH	DEE-5970	05/25/79	CALIFORNIA
LAND O' LAKES, INC.	DEE-5972	05/25/79	DISTRICT OF COLUMBIA
LEE OIL C.	DEE-5963	05/25/79	TENNESSEE
LYON'S GULF SERVICE STATION	DEE-5969	05/25/79	TEXAS
MASTER'S MARKET	DEE-5961	05/25/79	NEW JERSEY
MINI-SERVE	DEE-5971	05/25/79	TEXAS
NORTH WASHINGTON CONOCO	DEE-5886	05/25/79	COLORADO
OKLAHOMA REFINING CO.	DEE-5978	05/25/79	OKLAHOMA
R.J. SHELL & SON, INC.	DEE-5750	05/25/79	NORTH CAROLINA
ROSE DISTRIBUTORS	DEE-5962	05/25/79	CALIFORNIA
SEMINOLE PETROLEUM CO.	DEE-5966	05/25/79	FLORIDA
SICILIANI, JOHN	DEE-5973	05/25/79	CALIFORNIA
TIDMORE OIL COMPANY	DEE-6022	05/25/79	DISTRICT OF COLUMBIA
UNITED INDEP. TAXI DRIVERS, INC	DEE-6116	05/25/79	CALIFORNIA
WILLS, ROBERTA J.	DEE-5928	05/25/79	CALIFORNIA

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1252-8]

Approval of Proprietary Fuel Additive

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Grant of a Fuel Additive Waiver Application—Decision of the Administrator.

SUMMARY: Pursuant to section 211(f)(4) of the Clean Air Act (Act), as amended, 42 U.S.C. 7454(f)(4)(1977), the Administrator of EPA has conditionally granted the waiver requested by Sun Petroleum Products Company (Sun) for a proprietary oxygenated hydrocarbon fuel additive which provides no more than two percent oxygen in the fuel. This waiver is granted based on the Administrator's determination that the information that Sun submitted was sufficient to establish that this proprietary additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

FOR FURTHER INFORMATION CONTACT: Thomas E. Moore, Attorney-Advisor, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-2816.

SUPPLEMENTAL INFORMATION:

I. Introduction

Section 211(f) of the Clean Air Act (Act), 42 U.S.C. 7545(f) (1977) contains prohibitions and limitations on the introduction into commerce of controlled fuels and fuel additives. Section 211(f)(1) prohibits, after March 31, 1977, any manufacturer from first introducing into commerce or increasing the concentration in use of any controlled fuel or fuel additive.[1] Section 211(f)(3) prohibits any manufacturer which first introduced into commerce or increased the concentration in use of any controlled fuel or fuel additive between January 1, 1974, and March 31, 1977, from distributing such fuel or fuel additive in commerce after September 15, 1978.

Section 211(f)(4) provides that the Administrator of the Environmental Protection Agency (EPA), upon application of any manufacturer of a fuel or fuel additive, may grant a waiver of the section 211(f) prohibitions if he determines that the applicant has established that the fuel or fuel additive or a specified concentration thereof, and the emission products of such fuel or fuel additive or specified concentration thereof, will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application for a waiver within 180 days of its receipt, the waiver is granted by operation of the Act.

I have received an application for a section 211(f)(4) waiver for a proprietary oxygenated hydrocarbon fuel additive which provides no more than two percent oxygen in the fuel (hereafter proprietary additive since the chemical composition is confidential).[2] The application for the proprietary additive was received on December 19, 1978, from Sun Petroleum Products Company (Sun). Sun concluded from the data it submitted that unleaded gasoline containing this proprietary additive and its emission products do not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.[3] The 180 day review period for the Sun application expires June 17, 1979.

II. Summary of the Decision

I have determined that Sun has met the burden under section 211(f)(4) necessary to obtain a waiver for the proprietary additive as long as the proprietary additive does not contribute more than two percent oxygen to the resulting unleaded fuel.[4]

Sun and other interested parties have submitted information and data on this proprietary additive primarily at a concentration such that the proprietary additive provided 2 percent oxygen by weight to the fuel. I find that the data presented on this proprietary additive are sufficient to establish that the proprietary additive and its emission products will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

I hereby grant the waiver to Sun for its proprietary additive provided the following conditions are met.

1. The proprietary additive is used at a concentration such that it provides no more than two percent oxygen by weight to the resulting fuel.

2. The proprietary additive is blended in fuel such that the resulting fuel meets the American Society for Testing and Materials (ASTM) fuel volatility specifications.[5]

3. Sun willl notify the Director of the Mobile Source Enforcement Division, EPA that the proprietary additive's chemical composition is no longer confidential on December 15, 1979, or within fifteen days of when Sun makes the chemical composition known or becomes aware that chemical composition is no longer confidential, whichever occurs first, so that a **Federal Register** notice may be published initiating a 90 day petitioning period.

4. The Administrator may revoke the waiver if, after receiving a petition for reconsideration, he determines that based on new data and information not available prior to the public disclosure of the proprietary additive's chemical composition, the applicant is not entitled to the waiver. Petitions for reconsideration must be received on or before 90 days following publication by EPA of the proprietary additive's

[1] Section 211(f)(1) makes it unlawful after March 31, 1977 for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act.

[2] The application submitted on December 19, 1978, fully describes the chemical composition of Sun's proprietary additive.

[3] See Public Docket EN-79-12 for the data from tests conducted by Sun with this proprietary additive in support of the application. The only information relevant to this decision which is proprietary involves the chemical composition of the fuel additive. Sun made the proprietary additive available to any person for testing purposes provided he or she would execute a confidentiality agreement with Sun. In the docket are the exhaust and evaporative emission data and material compatibility data. The docket is available for public inspection in Room 2903B, EPA, 401 M Street, S.W., Washington, D.C.

[4] In determining whether an applicant has established his burden, the Administrator may look at all of the available information and data including that provided by persons other than the applicant.

[5] Standard Specification for Automotive Gasoline, Annual Book of ASTM Standards-1978, part 23, D 439-78, p. 226.

chemical composition in the **Federal Register**. The Administrator shall review any petitions for reconsideration to determine whether to revoke the waiver. If no petition is submitted or if upon review of the petitions the Administrator does not revoke the waiver only the conditions listed in 1 and 2 above will apply and a notice will be published in the **Federal Register** so stating.

EPA does not wish to discourage the development of new fuels or fuel additives by refusing to consider applications containing confidential information where those fuels or fuel additives may have a positive impact on our available energy resources. However, interested parties should be given a meaningful opportunity to comment on section 211(f) waiver applications. In this case, Sun made the proprietary additive available for testing provided that a confidentiality agreement was executed. The third and fourth conditions on the waiver are designed to further insure that all interested parties have been given a meaningful opportunity to comment on this application.

III. Method of Review

In order to obtain a waiver for a fuel or fuel additive the applicant must establish that the additive and its emission products will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such system or device is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. This burden, which Congress has imposed upon the applicant, if interpreted literally, is virtually impossible to meet as it requires the proof of a negative proposition, i.e., that no vehicle will fail to meet emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision some mitigation of this stringent burden was deemed necessary. For purposes of the waiver provision, it is recognized that reliable statistical sampling and fleet testing protocols could safely be used to demonstrate that a fuel or fuel additive under consideration would not cause or contribute to failure of emission standards by vehicles in the national fleet.

Data submitted with respect to a waiver request are analyzed by appropriate statistical methods in order to characterize the effect that a fuel or fuel additive will have on emissions. The statistical tests applied to the emission data provided in support of this waiver request are: a Paired Difference Test, Sign of Difference Test, and a test which compares the deteriorated emissions with the emissions standards (hereafter, Deteriorated Emissions Test).

The following is a brief description of the statistical tests utilized to characterize the emissions effect of this fuel additive.[6]

(1) The Paired Difference Test

For each vehicle tested on a base gasoline and on the waiver fuel or fuel additive, the difference between the waiver fuel or fuel additive emissions and the base fuel emissions was calculated. A 90% confidence interval was constructed for the mean differences. If the resulting interval lies entirely below zero it is indicative of no adverse effect from this fuel additive. If the entire interval is above zero, it is indicative of an adverse effect from the waiver fuel or fuel additive. If the interval contains zero, there is arguably no difference between the base fuel and the waiver fuel or fuel additive with regard to emissions provided the confidence interval is small.

(2) The Sign of Difference Test

For each vehicle tested with a base gasoline and the waiver fuel or fuel additive, the sign of the emission difference between the waiver fuel or fuel additive emissions and base fuel emissions was ascertained. This test is designed to determine whether the number of vehicles demonstrating an increase (+) in emissions with the proprietary additive significantly (at a 90% confidence level) exceeded those showing a decrease (−) in emissions with the waiver fuel or fuel additive.

(3) The Deteriorated Emissions Test

For each vehicle, the effect the waiver fuel or fuel additive had on emissions was determined. This incremental effect, either positive or negative, was added to the 50,000 mile certification emission value for the certification emission vehicle which the test vehicle represented. This incremented 50,000 mile emission value was compared to emissions standards to determine if it did or did not exceed the standards. Either a pass or fail was assigned accordingly. The pass/fail results were analyzed using a one-sided sign test.[7]

The first two methods of analysis are designed to determine whether the fuel or fuel additive has an adverse effect on emissions as compared to the base fuel. Each characterizes a different aspect of adverse effect. The Paired Difference Test determines the mean difference in emissions between the base fuel and the waiver fuel or fuel additive. The Sign of Difference Test assesses the number of vehicles indicating an increase or decrease in emissions. The two tests are considered together in evaluating whether an adverse effect exists to assure that a mean difference determination is not unduly influenced by very high or very low emission results from only a few vehicles.

The Deteriorated Emissions Test analysis indicates whether the fuel or fuel additive causes a vehicle to fail to meet emission standards. This test examines each vehicle's emission performance as compared to each pollutant standard.[8] It is useful to perform this analysis even if the first two analyses indicate the fuel or fuel additive has no adverse effect. The analysis indicates whether the emissions from any particular type of vehicles or special emission control technologies are uniquely sensitive to the fuel or fuel additive, thus causing vehicles to fail to meet standards. This effect could be masked in the previous analyses which consider the emissions results as a group without distinguishing the emissions impact on subgroups.

An alternative to providing the amount of data necessary to meet the statistical requirements, is to make judgments based upon a reasonable theory regarding emissions effect supported by confirmatory testing. If there exists a reasonable theory which predicts the emission effect of a fuel or fuel additive, an applicant may only need to conduct a sufficient amount of testing to demonstrate the validity of such theory. This theory and confirmatory testing then form the basis from which the Administrator may exercise his judgment on whether the fuel or fuel additive will cause or contribute to the failure of any emission control device or system to achieve

[6] A more detailed description of these tests and their Background may be found in the "Characterization Report" at 22.

[7] For purposes of analysis, this test was designed such that the risk of being denied a waiver would be at least 90 percent if 25 percent or more of the represented fleet fails to meet emission standards. This approach is related to the approach applied to vehicle manufacturers under the vehicle assembly line selective enforcement audit procedures. While a more conservative 20 percent noncompliance rate has been used in some past characterization analyses, 25 percent is more consistent with the selective enforcement audit procedures and was used in previous waiver determinations, 44 FR 10530, and 44 FR 21242.

[8] The appropriate Federal or California standard is applied according to whichever standard the manufacturer intended the vehicle to comply with.

compliance by the vehicle with emissions standards.

IV. Nature of the Test Data

The varying nature of fuels and fuel additives may alter the type of testing required to determine whether such fuels or fuel additives cause or contribute to the failure of vehicles to comply with emission standards. A fuel or fuel additive which is is expected to affect the performance of emission control devices or systems adversely over a period of time and mileage may require 50,000 mile durability testing to determine whether such effects exist.

On the other hand, a fuel or fuel additive which is expected to have only an instantaneous emission effect on a vehicle could be judged by comparing back-to-back emission tests on the same vehicle.[9]

It is possible that a fuel or fuel additive may operate to cause both an instantaneous increase and an increased deterioration of emission control systems or devices. If so, then both durability emissions data and instantaneous emissions data may be required.

Upon examination of the available data on material compatibility and the chemistry of the fuel additive, EPA has concluded that 50,000 mile durability testing data are not essential to this waiver decision.[10] A reasonable estimate of a test vehicle's emissions performance on this fuel additive can be obtained using back-to-back emission test data in lieu of requiring 50,000 mile durability testing.[11]

V. Analysis

A. Exhaust Emissions

When vehicles tested on the base fuel meet standards but fail to meet standards when tested on the waiver fuel or fuel additive, the waiver fuel or fuel additive is deemed to cause the failure of vehicles to meet emission standards. When vehicles fail to meet standards on the base fuel and the waiver fuel or fuel additive, and the waiver fuel or fuel additive fuel is shown to have an adverse effect on emissions as compared to the base fuel, the waiver fuel or fuel additive is deemed to contribute to the failure of vehicles to meet standards.

Exhaust emission data were submitted on 15 vehicles [12] tested on a base fuel and a fuel containing the proprietary additive at a concentration such that 2 percent oxygen by weight was contributed to the fuel. Summarized below are the results of three statistical tests on the proprietary additive. Tests 1 and 2 are designed to determine whether the proprietary additive has an adverse effect on emissions. Test 3 is designed to determine whether the fuel additive causes vehicles to fail to meet standards.

1. *The Paired Difference Test.* Listed below are the 90 percent confidence intervals around the mean difference between the base fuel and the proprietary-additive-containing fuel emission levels.

(a) Hydrocarbon (HC), −0.24 to 0.03.

(b) Carbon Monoxide (CO), −4.23 to −1.40.

(c) Oxides of Nitrogen (NOx), −0.16 to 0.05.

2. *The Sign of Difference Test.* Confidence that the proprietary-additive-containing fuel will cause an increase in emissions over the base fuel based on the observed increases out of the total vehicles tested (in parentheses) are stated below.

(a) HC (2/15), 0.05 percent confidence of an increase.[13]

(b) CO (1.15), 0.00 percent confidence of an increase.

(c) NOx (8/15), 50 percent confidence of an increase.

3. *Deteriorated Emissions Test.* Listed below are the number of vehicles whose incremented 50,000 mile emission values exceeded emission standards.

(a) HC, none out of 15.

(b) CO, none out of 15.

(c) No_x, none out of 15.

The results of tests 1 and 2 for the proprietary-additive-containing fuel indicate that CO emissions decrease and there is no adverse effect on HC and NO_x emissions. The 50% confidence of an increase in NO_x emissions from test 2 is the statistically expected result when a fuel or fuel additive has no effect at all. The results of the third test indicate that the proprietary-additive-containing fuel caused no vehicles to exceed emission standards when emissions deterioration for 50,000 miles was included in the analysis.

Because tests 1 and 2 for the proprietary-additive-containing fuel shows no adverse effect on emissions as a group and test 3 shows that no vehicles exceeded standards, we conclude that the proprietary additive does not cause or contribute to the failure of vehicles to meet exhaust emission standards.

B. Evaporative Emissions

Sun asserted that evaporated emissions are directly related to fuel volatility characteristics and that fuels blended with the proprietary additive will have final volatility characteristics similar to present commercially available gasoline:[14]

Sun performed a limited test program to confirm this theory. It tested two fuels with volatility properties within the ASTM unleaded gasoline specifications. The test program demonstrated that when the volatility properties of the gasoline containing the proprietary additive are within the ASTM specifications, its evaporative emission performance is no worse than the evaporative emissions of the commercially available fuels of similar volatility.[15] The volatility of commercially available gasoline varies over a substantial range.

It would be discriminatory to require an applicant's fuel or fuel additive to meet a more stringent volatility limit in order to control evaporative HC emissions than is characteristic of commercially available fuels. Thus, the proprietary additive will not be considered to cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the evaporative emission standard if the resulting fuel's volatility is within the ASTM specifications for automotive gasoline. If the volatility of gasoline were to eventually be regulated, then this fuel additive or any other fuel or fuel additive would have to comply with the regulatory requirements.

Consequently, unleaded fuel containing this proprietary additive with volatility properties within ASTM gasoline specifications will not cause or

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[9] Back-to-back testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on a base fuel containing the additive or the waiver request fuel.

[10] This conclusion is reached from an examination of the available material compatibility information, *see*, section V(C)(1), *infra*, and the judgment that the emissions effect of this fuel additive is of the instantaneous, not a deteriorative nature.

[11] Sun did provide limited durability test data (One vehicle for 20,000 miles). The results were supportive of the judgment that 50,000 mile test data should not be required.

[12] *See* Table 1 in the Characterization Report for a description of the vehicles utilized in the test programs. Five additional vehicles were tested at a concentration yielding 1.5 percent oxygen to the fuel but are only discussed in the Characterization Report since not enough information was provided to draw any significant statistical conclusions. All data submitted are discussed in the Characterization Report.

[13] In accordance with standard procedures, all tied cases are dropped from the analysis and the sample size is correspondingly reduced. *See*, Siegel, S., *Nonparametric Statistics*, 1956.

[14] Fuel volatility is described by a combination of its partial pressure at 100°F (Reid vapor pressure) and its distillation properties (ASTM D–86).

[15] *See*, Analysis of Evaporative Data in the Characterization Report at 27.

contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to Section 206 of the Act.

C. Technical Issues

1. *Materials Compatibility.* Sun addressed the issue of material compatibility by conducting a comprehensive testing program. Sun tested the effect of the proprietary additive on both metal and non-metal automobile fuel system components.

The components tested were selected from three brands of carburetor repair kits and one fuel pump. These parts were submerged for periods ranging from 3–6 months in a rust inhibited fuel containing the proprietary additive. The fuel overlaid a layer of water (water bottom) to simulate potential storage tank conditions. Both metal and non-metal components were measured for weight changes and surface appearance changes. The water bottoms from the metal submergence samples were tested for metal content to determine the extent of corrosion. Sun concluded that the proprietary-additive-containing fuel did not produce excessive or unusual attack on metal parts.

Sun also conducted tests to determine the extent that the proprietary-additive-containing fuel would cause non-metal parts to swell. The data indicated that any swell which occurred was within the engineering specifications of the part manufacturer. Some of the non-metal parts were simutaneously tested with an unleaded reference fuel that has been commercially used for at least five years and which has an oxygenated hydrocarbon component equal to the maximum percentage at which the proprietary additive would be used. The data for the two fuels indicate generally similar responses for swell and weight changes.

Sun also conducted metal corrosion tests on steel and zinc to determine the dynamic and static rust ratings. The tests were performed according to a modified ASTM D–665B procedure. The results indicate that with the use of a commercial rust inhibitor, corrosion is adequately controlled.[16]

Sun also accumulated 20,000 miles on one vehicle operated on the proprietary additive. No fuel system failures occurred during this period. The fuel tank, fuel pump, and carburetor were removed and inspected. General engine cleanliness was within the expected range for that mileage driven with a conventional fuel.

General Motors (GM) and Chrysler Corporation expressed concern regarding the proprietary additive's compatibility with materials used in vehicles.[17] Their concerns related to the insufficient amount of long-term testing of fuel system components to adequately assess the effect of the proprietary additive since the chemical composition was not known. GM also raised the issue of the sufficiency of the breadth and types of testing performed by Sun and whether such tests could be used to conclude that premature failure of components will not occur.

Sun, in response to the concerns raised by GM and Chrysler, stated that it conducted comparative testing with a fuel which contained a commercially available oxygenated hydrocarbon component in order to evaluate the material compatibility properties of the proprietary additive with an additive whose compatibility with the fuel system components has been assessed in commercial use for about five years.[18] The results of the testing indicated generally similar effects of the two additives on fuel system parts. Sun believes that these tests, together with the 20,000 mile durability test it performed, provide reasonable assurance that the proprietary additive will not result in substantial deterioration of fuel system components.

The condition attached to this waiver will permit the Administrator to reconsider this waiver if petitioned to do so, at such time as the composition of the proprietary additive is no longer confidential. This will provide an opportunity for vehicle manufacturers and others to evaluate the effect of the proprietary additive on materials to be used in their fuel systems and, if compatibility problems are anticipated, to petition the Agency for reconsideration of the waiver.

Based on these data and our judgment, I have concluded that the proprietary additive does not present a materials compatibility problem on systems which are currently in use.

2. *Driveability.* The issue of driveability was discussed by Sun. Poor driveability caused by a fuel or fuel additive could impact emissions either through engine malfunction or misadjustment of engine components in an effort to improve driveability. Significant driveability problems solely attributable to a fuel or fuel additive should not occur since manufacturers are expected to avoid marketing fuels which would manifest adverse driveability. I, therefore, conclude that driveability is not a significant problem provided the resulting fuel is manufactured according to accepted industry practices.

VI. Findings and Conclusions

I have determined that Sun has established that its proprietary additive which would provide no more than 2 percent oxygen by weight to the fuel and the emission products thereof will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

I hereby grant the waiver to Sun for its proprietary additive provided the following conditions are met.

1. The proprietary additive is used at a concentration such that it provides no more than two percent oxygen by weight to the resulting fuel.

2. The proprietary additive is blended in fuel such that the resulting fuel meets the ASTM fuel volatility.

3. Sun will notify the Director of the Mobile Source Enforcement Division, EPA that the proprietary additive's chemical composition is no longer confidential on December 15, 1979, or within fifteen days of when Sun makes the chemical composition known or becomes aware that chemical composition is no longer confidential, whichever occurs first, so that a **Federal Register** notice may be published initiating a 90 day petitioning period.

4. The Administrator may revoke the waiver if, after receiving a petition for reconsideration, he determines that based on new data and information not available prior to the public disclosure of the proprietary additive's chemical composition, the applicant is not entitled to the waiver. Petitions for reconsideration must be received on or before 90 days following publication by EPA of the proprietary additive's chemical composition in the **Federal Register**. The Administrator shall review any petitions for reconsideration to determine whether to revoke the waiver. If no petition is submitted or if upon review of the petitions the Administrator does not revoke the waiver, only the conditions listed in 1 and 2 above will apply and a notice will be published in the **Federal Register** so stating.

[16] Rust inhibitor is commonly used in gasoline to prevent metal corrosion because some components of gasoline are inherently corrosive.

[17] See GM's letter dated May 31, 1979, and Chrysler's letter dated May 23, 1979.

[18] See Sun's letter dated June 7, 1979.

Dated: June 13, 1979.

Douglas M. Costle,

Administrator.

Characterization Report

Summary

This paper presents a summarization and analysis of the data presented in support of the request from the Sun Petroleum Products Company (Sun) for a waiver of the limitation and prohibition from use of their specified additive in unleaded fuel. The waiver request refers to a proprietary oxygenated hydrocarbon fuel additive (hereafter proprietary additive) which provides no more than two percent (%) oxygen in the resulting unleaded fuel.

The following report includes a description of the sources of test data, the statistical analysis of the data, and a discussion of the conclusions drawn.

Sources of Data

Sun, in support of its waiver request, submitted back-to-back Federal Test Procedure (FTP) exhaust emissions data [1] on a total of twenty 1975 or later model year vehicles. Five of these vehicles were tested on indolene as a base fuel and a blend of indolene and the proprietary additive such that the proprietary additive provided 1.5% oxygen to the fuel. Of these five vehicles, three were equipped with oxidation catalysts designed to meet the Federal exhaust emission standards. Two were equipped with three-way catalysts designed to meet California emission standards.

Fifteen vehicles were tested on Sun's unleaded regular as the base fuel and a blend of this unleaded regular and the proprietary additive such that the proprietary additive provided 2% oxygen to the fuel. All of the vehicles were equipped with oxidation catalysts designed to meet Federal emission standards.

Two of the vehicles tested for exhaust emissions were also subjected to evaporative emission tests. One additional vehicle was tested for evaporative emissions only. A description of the vehicles which underwent exhaust or evaporative emission is contained in Table 1.

Analytical Procedures

This section reviews several procedures designed to examine the effects of additive-containing fuels compared to base fuels. They are:

(1) Paired difference test,

(2) Sign of difference test,

(3) Comparison of deteriorated emissions with standards (deteriorated emissions test).

Each test was applied to data for a specific technology group and concentration of oxygen in the fuel. One technology group consists of oxidation catalyst vehicles designed to meet Federal standards of 1.5, 15, and 2.0 grams per mile (gpm) for HC, CO and NOx,[2] respectively (hereafter Federal vehicles). The other technology group consists of three-way catalyst vehicles designed to meet California standards of 0.41, 9.0, and 1.5 gpm for HC, CO, and NOx respectively (hereafter Future vehicles). Sample size means, variances, standard deviations and a fuel code reference for each vehicle are listed in Appendix 1.

1. *Paired Difference Test*

For each vehicle tested on a base fuel and the additive-containing fuel, the differences between the additive-containing fuel emissions and the base fuel emissions were calculated. A 90% confidence interval was constructed for each of these differences.

This method of establishing 90% confidence intervals on the mean difference implicitly assumes emissions follow a normal distribution. While this requirement may not be exactly met, the method is robust enough to withstand some deviation from the normality assumption. This interval can be interpreted as: in approximately 90 experiments out of 100, one is confident that the interval so constructed would include the true value of the mean emission difference (i.e., the additive's effect). If the resulting entire interval lies below zero it is indicative of a decrease in emissions from the additive. If the entire interval is above zero, it is indicative of an increase in emissions from the additive.

If the interval contains zero, there is arguably no difference between the base fuel and additive-containing fuel emission levels provided this interval is reasonably small. Since the length of the confidence interval can be large in the case of a small sample size, any interval containing zero must be sufficiently small so that its upper limit does not exceed 10 percent of the applicable emission standard to reasonably contend that no increase in emissions has occurred.

In order to assure that intervals covering zero are small enough, sufficient samples must be taken. Since the interval length varies inversely with the sample size, an increase in sample size would decrease the interval length. If the interval length was sufficiently small, one of three possible results could occur:

(i) The entire interval would lie below zero;

(ii) The interval would include zero and the upper limit would be lower than 10 percent of the applicable emission standards; or

(ii) The entire interval would lie above zero.

In general, the result is dependent on the location of the sample mean. Any of the three results would permit a definitive conclusion to be drawn. Hereafter, the situation in which a confidence interval includes zero, but has an upper limit above 10 percent of the applicable standard will be referred to as having insufficient data to reach a definitive conclusion.

Therefore, this procedure considers an increase in emissions from the proprietary additive to exist when this confidence interval lies entirely above zero. A lack of an increase in emissions is said to exist if it contains zero while the upper limit does not exceed 10 percent of the applicable standard. A decrease in emissions is said to exist if the confidence interval is entirely below zero. For the purpose of this procedure, replicate tests on any one vehicle and fuel were averaged to provide a single datum point in the analysis. Each vehicle carried an equal weight in the determination of the confidence interval.

The results for this procedure are shown in Table 2. The results for Federal vehicles are summarized below:

(a) 2 percent oxygen—HC and NOx did not increase; CO emissions decreased.

(b) 1.5 percent oxygen—HC did not increase; NOx increased; insufficient data to reach a definitive conclusion for CO emissions.

For the future vehicles only one concentration was represented. The results for this group are:

(a) 1.5 percent oxygen—insufficient data to reach a definitive conclusion for HC or CO; NOx increased.

For the combined Federal and Future vehicles the results are summarized by:

(a) 2 percent oxygen—HC and NOx did not increase, CO emissions decreased.

(b) 1.5 percentt oxygen—HC decreased; CO did not increase; and NOx increased.

(2) *Sign of Difference Test*

[1] Back-to-back testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on the base fuel containing the additive.

[2] Hydrocarbon, carbon monoxide and oxides of nitrogen, respectively. Model year 1975 and 1976 vehicles were designed to meet Federal standards of 1.5, 15, and 3.1 gpm.

For each vehicle tested with a base fuel and the additive-containing fuel, the sign of the emission difference between the additive-containing fuel emissions and base fuel emissions was ascertained. This non-parametric test was designed to determine whether the number of vehicles demonstrating an increase (+) in emissions with the additive containing fuel significantly (at a 90 percent condfidence level) exceeded those showing a decrease (−) in emissions with the additive containing fuel.

In each test for each pollutant, the null hypothesis was that the median emission level for that pollutant was the same for both the base fuel and the additive-containing fuel. The alternative hypothesis for HC, CO, and NOx was that the median emissions level for the additive-containing fuel was higher than that of the base fuel.

The number of vehicles for which an increase in emissions was observed was calculated for each additive-containing fuel concentration. If there were no real differences in emission levels attributable to the additive, the expected proportion of instances in which an increase between fuels would occur for any pollutant would be 0.5. Thus, a large proportion of observed increases in emission levels for a pollutant would indicate an increase in emissions from the additive-containing fuel. Table 3 shows the results of this procedure.

At 2 percent oxygen concentration, HC, CO, and NOx emission levels did not indicate an increase in these pollutants for Federal vehicles (Future vehicles were not tested on 2 percent oxygen). At 1.5 percent oxygen concentration HC, and CO, emission levels did not indicate an increase while NOx did indicate an increase for Federal vehicles, Future vehicles and the combination of both groups.

The apparent increase in NOx with 1.5 percent oxygen fuel may be an artifact of the small number of vehicles tested on this fuel. However, any increase is very small in magnitude since the 90 percent confidence interval of the mean difference lies between 0.10 and 0.19.

(3) *Deteriorated Emissions Test*

In order to determine whether the additive-containing fuel would cause the failure of any vehicle to meet emission standards during its useful life, a one-sided sign test to evaluate compliance using projected 50,000 mile emission levels was performed. [3] This statistical procedure assumes that the difference in emission levels between the base fuel and the additive-containing fuel for a particular vehicle either remains constant or becomes larger over the useful life of the vehicle.

Projected 50,000 mile emission levels for each test vehicle (on which EPA had received sufficient vehicle identification information) were obtained by using average FTP results and 50,000 mile certification data. The test was designed such that the risk of failing would be at least 90 percent if 25 percent or more of the represented fleet failed to meet Federal emission standards for the additive-containing fuel considered. [4]

In the range of true percent defective below the Acceptable Quality Level, the risk of failing this procedure decreases as the sample size increases. Thus, for small percent defective, it is advantageous to supply more than the minimum amount of data. Under this procedure, the critical number (the smallest number of projected test failures for a given sample size which would constitute a failure of the criterion) for a sample size of eight would be one. A sample of less than eight would be insufficient to apply the procedure.

Thus, for samples of size eight, if one vehicle failed to meet emission standards with its projected 50,000 mile value, the review criterion was failed.

This procedure was applied as follows: for each vehicle for EPA had received sufficient vehicle information, the 50,000 mile emission levels were obtained from the certification test results for its engine and body configuration. The difference between average emission levels for the additive-containing fuel and base fuel were added to these levels to obtain projected 50,000 mile levels. These projected levels were then compared to emission

[3] Projected 50,000 mile data were used rather than 50,000 mile durability testing on the judgement that the emissions effect of this additive is manifested instantaneously.

[4] The power curves and table of critical values for this test are shown in Appendix 2.

standards to which the vehicle was designed. A failure was recorded when a projected level exceeded the appropriate standard. Table 4 displays the results of this procedure. This comparison showed no failing vehicles among the population of 15 Federal vehicles tested on the proprietary additive which provided 2 percent oxygen to the fuel. Thus, the criterion was satisfied for this sample.

Only five vehicles were tested on the 1.5 percent oxygen containing fuel. While this number is insufficient to satisfy this criterion, the comparison was made since any failure would result in failing the criterion. Three of the five vehicles could not be sufficiently identified to perform the Deteriorated Emissions Test.[5] The two vehicles which could be identified were Federal vehicles and they passed the comparison.

Evaporative Emissions

Evaporative emission data on three vehicles were provided by Sun. The vehicles were tested using two fuels with different volatility characteristics but which met ASTM D–439 volatility specification. In theory, evaporative losses from vehicles are directly related to fuel volatility.[6] This direct linear relationship has been demonstrated in testing.[7] To show that Sun's proprietary additive, when blended in unleaded fuel fit this theory, the evaporative emissions data were plotted with the data obtained on other commercially available fuels of different volatilities from a previous waiver decision.[8] The linear relationship holds for Sun's test fuels and therefor, agrees with the technical theory.

Conclusions

The Paired difference test shows, for the unleaded base fuel blended with the proprietary additive to yield 2 percent oxygen, the HC and NOx emission levels did not increase and the CO emissions decreased. For the 1.5 percent oxygen concentration, the HC emission levels decreased, the CO level did not increase and the NOx level showed a very small increase.

The Sign of the difference test shows virtually no confidence of an HC and CO increase for the 2 percent oxygen concentration. The NOx emissions are as likely to increase as decrease (50 percent confidence of an increase or decrease). The 1.5 percent oxygen in indolene shows no increase in HC and CO emissions and a probability (with 96.88 percent confidence) of an increase reported for the NOx emission level. However, the data indicate than any increase in NOx emissions will be very small.

The third procedure, comparing deteriorated emissions with the standards, demonstrates that none of the 15 Federal vehicles tested on 2 percent oxygen containing fuel exceeded the applicable emission standards. Further, two of the Federal vehicles tested on 1.5 percent oxygen containing fuel which could be identified were also demonstrated not to exceed applicable emission standards.

Analysis performed to assess the evaporative emission performance comports with the theory that increasing volatility leads to increasing evaporative losses. The proprietary additive when blended in unleaded fuels had emission data similar to other fuels meeting ASTM D–439 specifications.

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[5] Sun could not supply the vehicle's engine family information because they did not document the engine family descriptions and the vehicles are no longer available. These were rental vehicles tested and released by Sun befor the waiver application was filed.

[6] Patterson, D.J., *Emissions From Combustion Engines and Their Control, 1972 pg. 60.*

[7] Hurn, R.W., *Effect of Fuel Front-End and Mid-Range Volatility on Automobile Emissions. RI7707*

[8] See MTBE Characterization Report for the data on other commercially available fuels, and evaporative losses, 44 Fed. Reg. 21242.

Table 1.—*Test Vehicle Description*

Source	Model year	Vehicle I.D.	Make/model	Cal. Fed. configuration	Catalyst	Oxygen content (percent)	Data available
Sun	1977	SW091	Mercury Marquis	Federal	Oxidation	2.0	a
Sun	1976	SV028	Ford Torino	Federal	Oxidation	2.0	a
Sun	1978	SX030	Oldsmobile Delta 88	Federal	Oxidation	2.0	a
Sun	1975	SU039	Chevrolet Monte Carlo	Federal	Oxidation	2.0	a
Sun	1977	SW092	Plymouth Volare	Federal	Oxidation	2.0	a
Sun	1978	SX031	Dodge Aspen	Federal	Oxidation	2.0	a
Sun	1978	SX032	Ford Fairmont	Federal	Oxidation	2.0	a
Sun	1978	SX033	Dodge Monaco	Federal	Oxidation	2.0	a
Sun	1977	SW008	Cadillac Coupe de Ville	Federal	Oxidation	2.0	a
Sun	1977	SW093	Oldsmobile Cutlass	Federal	Oxidation	2.0	a
Sun	1977	SA242	Pontiac Catalina	Federal	Oxidation	2.0	a
Sun	1978	SA246	Pontiac Phoenix	Federal	Oxidation	2.0	a
Sun	1979	SA252	Chevrolet Impala	Federal	Oxidation	2.0	a, b
Sun	1979	SA253	Mercury Marquis	Federal	Oxidation	2.0	b
Sun	1979	SA250	Ford Mustang	Federal	Oxidation	2.0	a, b
Sun	1977	SW090	Oldsmobile Cutlass	Federal	Oxidation	2.0	a
Sun	1978	S0001	Pontiac Sunbird	California	Three-way	1.5	a
Sun	1978	S0002	Volvo	California	Three-way	1.5	a
Sun	1976	S0003	Ford Mustang	Federal	Oxidation	1.5	a
Sun	1979	S0004	Ford Mustang	Federal	Oxidation	1.5	a
Sun	1977	S0005	Pontiac Phoenix	Federal	Oxidation	1.5	a

a=Exhaust Emissions Data
b=Evaporative Emissions Data

Table 2.—*90 Percent Confidence Interval for Mean Emission Differences*

	Sample sizes	HC (grams/mile)	CO (grams/mile)	NO_x (grams/mile)
Federal vehicles:				
Unleaded with 2 percent oxygen	15	(−0.24, 0.03)[1]	(−4.23, −1.4)	(−0.6, 0.05)
Indolene with 1.5 percent oxygen	3	(−0.46, 0.14)	(−8.44, 2.21)[2]	(0.10, 0.25)
Future vehicles: Indolene with 1.5 percent oxygen	2	(−0.93, 0.65)[2]	(−5.07, 3.58)[2]	(0.11, 0.11)[3]
Combined Federal and future vehicles:				
Unleaded with 2 percent oxygen	15	(−0.24, 0.03)	(−4.23, −1.4)	(−0.16, 0.05)
Indolene with 1.5 percent oxygen	5	(−0.30, 0.00)	(−4.67, 0.34)	(0.10, 0.19)

[1] For each, the first number represents the lower bound of the 90 percent confidence interval and the second number represents the upper bound of the 90 percent confidence interval.
[2] Insufficient data to reach a definitive conclusion.
[3] Since both vehicles showed an increase in NO_x emissions of 0.11, no variation was measured and 0.11 must statistically be regarded as the interval.

Table 3.—*Sign Test Statistics and Confidence Levels for Comparison of Median Emission Levels Between Base Fuel and the Proprietary-Additive-Containing Fuel Concentrations*

	HC	CO	NO_x
Federal vehicles:			
Unleaded with 2 percent oxygen (increases/observations)	2/15	1/15	8/15
Confidence level for increases (percent)	0.05	0.00	50.00
Indolene with 1.5 percent oxygen	0/3	0/3	3/3
Confidence level for increases (percent)	0.00	0.00	87.50
Future vehicles:			
Indolene with 1.5 percent oxygen	0/2	0/2	2/2
Confidence level for increases (percent)	0.00	0.00	75.00
Combined Federal and future vehicles:			
Unleaded with 2 percent oxygen	2/15	1/15	8/15
Confidence level for increases (percent)	0.05	0.00	50.00
Indolene with 1.5 percent oxygen	0/5	0/5	5/5
Confidence level for increases	0.00	0.00	96.88

Table 4.—*Comparison of Deteriorated Emissions with Standards (Number Failures/Total Number)*

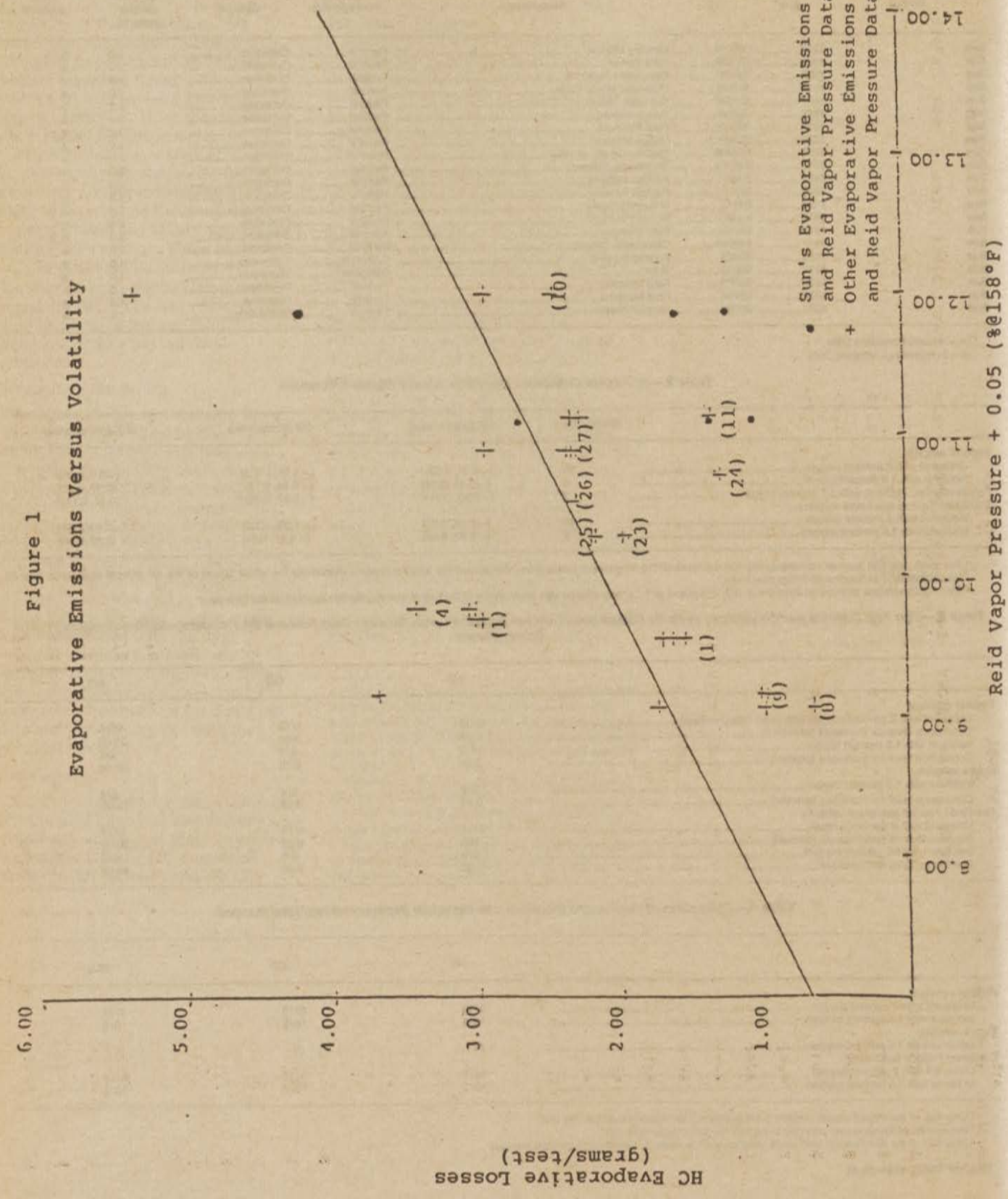
	HC	CO	NO_x
Federal vehicles:			
Unleaded with 2 percent oxygen	0/15	0/15	0/15
Indolene with 1.5 percent oxygen	[1]0/2	[1]0/2	[1]0/2
Future vehicles:			
Indolene with 1.5 percent oxygen	(3)	(3)	(3)
Combined Federal and future:			
Unleaded with 2 percent oxygen	0/15	0/15	0/15
Indolene with 1.5 percent oxygen	[2]0/2	[2]0/2	[2]0/2

[1] Only two of the three Federal vehicles were sufficiently identified to perform this test.
[2] Insufficient information was provided to identify the vehicles for this test.
[3] Only two of the five Federal and Future vehicles were sufficiently identified to perform this test.

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Figure 1

Evaporative Emissions Versus Volatility



AVERAGE EMISSIONS BY VEHICLE BY FUEL — APPENDIX 1 — PAGE 1

SOURCE	VEH	FUEL	N OBS	HC MEAN	HC VAR	HC STDEV	CO MEAN	CO VAR	CO STDEV	NOX MEAN	NOX VAR	NOX STDEV	EVAP MEAN	EVAP VAR	EVAP STDEV
S	W091	3	1	0.60	-	-	3.98	-	-	1.89	-	-	-	-	-
S	W091	4	1	0.59	-	-	3.90	-	-	1.78	-	-	-	-	-
S	W090	3	1	0.68	-	-	7.46	-	-	1.23	-	-	-	-	-
S	W090	4	1	0.54	-	-	4.65	-	-	1.48	-	-	-	-	-
S	A242	3	1	1.71	-	-	12.18	-	-	1.64	-	-	-	-	-
S	A242	4	1	1.27	-	-	7.47	-	-	1.70	-	-	-	-	-
S	A252	3	2	0.48	0.002	0.04	5.09	0.192	0.44	1.82	0.042	0.21	1.64	-	-
S	A252	4	2	0.43	0.001	0.04	3.24	2.101	1.45	1.59	0.020	0.14	2.68	-	-
S	A253	3	0	-	-	-	-	-	-	-	-	-	1.24	-	-
S	A253	4	0	-	-	-	-	-	-	-	-	-	1.10	-	-
S	A246	3	1	1.11	-	-	13.68	-	-	1.40	-	-	-	-	-
S	A246	4	1	0.82	-	-	10.07	-	-	1.45	-	-	-	-	-
S	U034	3	1	1.16	-	-	11.77	-	-	1.85	-	-	-	-	-
S	U039	4	1	0.99	-	-	9.71	-	-	1.93	-	-	-	-	-
S	V028	3	1	1.09	-	-	13.94	-	-	1.01	-	-	-	-	-
S	V028	4	1	1.87	-	-	16.52	-	-	0.88	-	-	-	-	-
S	V028	5	1	1.95	-	-	20.12	-	-	0.74	-	-	-	-	-
S	X030	3	1	1.46	-	-	21.45	-	-	2.56	-	-	-	-	-
S	X030	4	1	1.05	-	-	15.11	-	-	2.69	-	-	-	-	-
S	X030	5	1	1.21	-	-	20.25	-	-	2.68	-	-	-	-	-
S	W092	3	1	0.97	-	-	13.95	-	-	2.06	-	-	-	-	-
S	W092	4	1	1.05	-	-	11.12	-	-	1.95	-	-	-	-	-
S	X031	3	1	0.68	-	-	12.00	-	-	1.81	-	-	-	-	-
S	X031	4	1	0.65	-	-	8.31	-	-	1.85	-	-	-	-	-
S	X032	3	1	0.74	-	-	5.27	-	-	1.72	-	-	-	-	-
S	X032	4	1	0.62	-	-	3.71	-	-	1.81	-	-	-	-	-
S	X033	3	1	1.05	-	-	15.45	-	-	1.67	-	-	-	-	-
S	X033	4	1	0.96	-	-	12.76	-	-	1.74	-	-	-	-	-

APPENDIX 1 PAGE 2

S	X033	5	1	0,84	-	-	13,32	-	-	1,80	-	-	-	-	-
S	W006	3	1	0,75	-	-	4,64	-	-	2,11	-	-	-	-	-
S	W006	4	1	0,74	-	-	4,49	-	-	1,88	-	-	-	-	-
S	W093	3	1	1,10	-	-	8,88	-	-	1,87	-	-	-	-	-
S	W093	4	1	0,90	-	-	7,57	-	-	1,86	-	-	-	-	-
S	A250	3	1	0,86	-	-	17,64	-	-	3,11	-	-	4,39	-	-
S	A250	4	1	0,35	-	-	6,50	-	-	2,36	-	-	1,31	-	-
S	0001	1	2	0,81	0,005	0,07	8,75	0,500	0,71	1,95	-	-	-	-	-
S	0001	2	2	0,54	0,002	0,05	7,32	0,051	0,23	2,06	0,013	0,11	-	-	-
S	0002	1	2	0,31	0,000	0,01	3,28	0,002	0,04	0,67	0,002	0,04	-	-	-
S	0002	2	2	0,30	0,000	0,01	3,22	0,016	0,13	0,78	0,005	0,07	-	-	-
S	0003	1	2	1,23	0,029	0,17	8,88	0,199	0,45	1,68	0,000	0,01	-	-	-
S	0003	2	2	1,21	0,002	0,05	8,10	0,024	0,16	1,82	0,001	0,03	-	-	-
S	0004	1	1	0,76	-	-	14,72	-	-	1,90	-	-	-	-	-
S	0004	2	2	0,66	0,000	0,01	12,87	0,180	0,42	2,07	0,020	0,14	-	-	-
S	0005	1	1	1,22	-	-	19,47	-	-	1,53	-	-	-	-	-
S	0005	2	1	0,86	-	-	12,76	-	-	1,75	-	-	-	-	-

BILLING CODE 6560-01-C

Fuel Codes for Average Emissions Data

Fuel codes:	*Fuel description*
1	Indolene.
2	Indolene with 1.5 percent oxygen.
3	Sunoco unleaded.
4	Sunoco unleaded with 2 percent oxygen.
5	Sunoco unleaded premium.

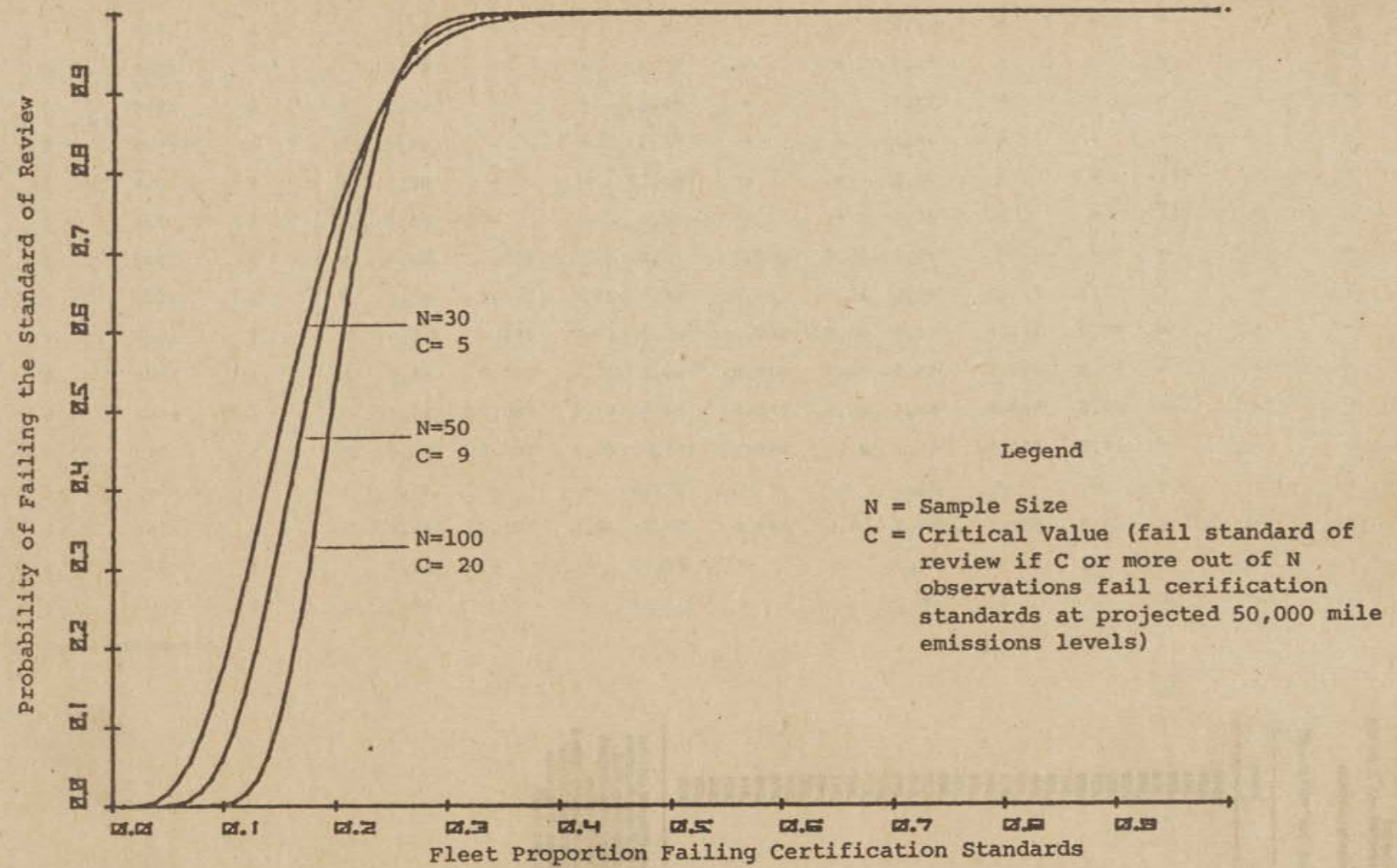
Appendix 2.—*Power of Binomial Test* with p=.25*

Sample size	Critical value	Power
8	1	0.900
9	1	.925
10	1	.944
11	1	.958
12	1	.968
13	1	.976
14	2	.899
15	2	.920
16	2	.937
17	2	.950
18	2	.961
19	3	.889
20	3	.909
21	3	.925
22	3	.939
23	3	.951
24	4	.885
25	4	.904
26	4	.920
27	4	.933
28	4	.945
29	5	.885
30	5	.902
31	5	.917
32	5	.930
33	5	.941
34	6	.886
35	6	.902
40	7	.904
45	8	.906
50	9	.908
60	11	.914
70	13	.920
80	15	.926
90	18	.890
100	20	.900

*For purposes of analysis, this test was designed such that the risk of being denied a waiver would be at least 90 percent if 25 percent or more of the represented fleet fails to meet emission standards. This approach is related to the approach applied to the vehicle manufacturers under the vehicle assembly line selective enforcement audit procedures. While a more conservative 20 percent noncompliance rate has been used in some past characterization analyses, 25 percent is more consistent with the selective enforcement audit procedures.

BILLING CODE 6450-01-M

Appendix 2



Probability of Failing the Standard of Review for Different Sample Sizes and Critical Values versus the True Proportion in the Fleet Failing Certification Standards

[FR Doc. 79-19250 Filed 6-22-79; 8:45 am]
BILLING CODE 6560-01-C

[FRL 1248-5]

Implementation Plan Revisions for Nonattainment Areas in New York State; Notice of Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency announces today that proposed revisions to the New York State Implementation Plan for the New York State portion of the New York City Metropolitan Area have been received and are available for public inspection. The proposed plan revisions were submitted by the State under requirements of the Clean Air Act, as amended. They address attainment of national ambient air quality standards for ozone, carbon monoxide, and total suspended particulates and requirements for meeting basic transportation needs. A notice of proposed rulemaking describing the revisions will be published in the Federal Register at a later date at which time the public will be formally invited to submit written comments; the period for the submittal of written comments will extend for 60 days from the date of publication of this future notice.

ADDRESSES: The submittals for the New York City Metropolitan Area may be examined during normal business hours at the following addresses:

U.S. Environmental Proection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, New York 10007.

U.S. Environmental Proection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

New York State Department of Environmental Conservation, 50 Wolf Rd., Albany, New York 12233.

New York State Department of Environmental Conservation, Two World Trade Center, 61st Floor, New York, New York 10006.

All comments should be addressed to: Eckardt C. Beck, Regional Administrator, Region II Office, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: Gerard Soffian, Chief, Implementation Section, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, (212) 264-5658.

SUPPLEMENTARY INFORMATION: The Clean Air Act, as amended August 7, 1977, requires that states submit revisions to their State Implementation Plans to provide for attainment and maintenance of national ambient air quality standards in areas designated as being in nonattainment. On March 3, 1979 (43 FR 8962) the Administrator of the Environmental Protection Agency (EPA) designated part of the New York portion of the New Jersey-New York-Connecticut Air Quality Control Region as nonattainment for the primary carbon monoxide air quality standard and for the secondary particulate matter standard. In addition, the entire area was designated as nonattainment for the primary ozone standard. These designations also appeared in a subsequent Federal Register notice published on January 25, 1979 (44 FR 5119). The State of New York has prepared the required plan revisions for ozone and carbon monoxide. These were transmitted to EPA under a May 16, 1979 letter from the Governor. In this letter, the Governor also requested an extension to July 1, 1980 for submittal of a plan revision to attain the secondary particulate matter standard.

Also submitted by the State was an improvement to an August 6, 1978 submittal to fulfill the State's requirements under Section 110(c)(5)(B) of the Clean Air Act. The improved submittal presents the State's program to provide for meeting basic transportation needs in the metropolitan area.

The purpose of this notice is to call the public's attention to the fact that these revisions have been formally submitted and are available for public inspection. A description of the revisions will be published in the Federal Register at a later as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: June 8, 1979.

Eckhardt C. Beck,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 79-18753 Filed 6-22-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 79-146; File Nos. CIB782901011 and CIB791297902]

Accurate Cartage Co.; Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

Adopted: June 11, 1979.

Released: June 13, 1979.

By the Chief, Private Radio Bureau:

In re application of Accurate Cartage Company, 171st & Center Avenue, Hazel Crest, Illinois 60429 for authorization for new facilities in the business radio service.

1. The Chief, Private Radio Bureau (the Bureau) has before him for consideration the above-captioned application of Accurate Cartage Company (Accurate) For authorization of new 800 MHz band conventional radio facilities in the Business Radio Service. Also before the Bureau is information concerning an investigation conducted by the Chicago District Office of the Commission's Field Operations Bureau into Accurate's unlicensed operation of the radio facilities proposed in its application.

2. It appears from the Chicago District Office's investigation that the unlicensed operation commenced shortly after installation of the radio equipment in late January or early February 1979, and continued until it was discovered by the Field Operations Bureau on May 30, 1979. According to Bernard Arquilla, the applicant's principal, Accurate was led by employees and/or agents of the manufacturer of the radios to believe that the system was licensed. The Bureau is not persuaded, however, that Mr. Arquilla's explanation satisfactorily resolves the matter of Accurate's unlicensed operation.

3. The information before the Bureau concerning Accurate's unlicensed operation raises serious questions as to whether Accurate possesses the requisite character qualifications or is sufficiently competent or shows sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorization which it here seeks. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-referenced application would serve the public interest, convenience and necessity, the application must, in accordance with Section 309(e) of the Act, be designated for hearing.

4. Accordingly, It is ordered, that in accordance with the provisions of section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned application of Accurate Cartage Company, File Nos. CIB872901011 and CIB791297902, for authorization of new facilities in the Business Radio Service is, pursuant to authority delegated in §§ 0.131(a) and 0.331 of the Commission's Rules,

designated for hearing, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether Accurate Cartage Company operated radio facilities in the Business Radio Service which were not licensed to it.

(b) To determine whether any unlicensed operation by Accurate Cartage Company was knowing or willful or negligent.

(c) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Accurate Cartage Company possesses the requisite character qualifications to receive a grant of the application which is the subject of this proceeding.

(d) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Accurate Cartage Company has exhibited such lack of interest or carelessness concerning conduct of its affairs with respect to the licensing and implementation of radio facilities that it should not be entrusted with the radio authorization which it is here seeking.

(c) To determine, in light of the evidence adduced pursuant to each of the foregoing issues, what disposition of the above-captioned application of Accurate Cartage Company will best serve the public interest, convenience and necessity.

5. It is further ordered, that Accurate Cartage Company and the Chief, Private Radio Bureau are made parties in this proceeding.

6. It is further ordered, that the burden of proceeding with the introduction of evidence and the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Sections 1.254 and 1.973(e) of the Commission's Rules, upon Accurate Cartage Company with respect to the issues set forth in paragraph 4 hereinabove.

7. It is further ordered, that each of the parties named in paragraph 5 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the ———— fixed for hearing and present evidence on the issues specified in this Order, as prescribed in Section 1.221 of the Commission's Rules.

8. It is further ordered, that the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Accurate Cartage Company at the address furnished in its application.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 79-19663 Filed 6-22-79; 8:45 am]

BILLING CODE 6712-01-M

Change in Meeting Room for Meeting on Radio Propagation Analysis in Domestic Public Land Mobile Radio Service for Highly Irregular Terrain

June 20, 1979.

The meeting announced in Public Notice 17973, released May 30, 1979 (44 FR 32472), will be held in Room A-110, 1229 20th Street, N.W., Washington, D.C. instead of the room previously announced. All other particulars remain the same.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-19662 Filed 6-22-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 5, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-2631-3.

Filing Party: Edward S. Bagley, Esq., Terriberry, Carroll, Yancey & Farrell, 2100 International Trade Mart, New Orleans, La. 70130.

Summary: Agreement No. T-2631-3 restates and modifies the basic agreement between the members of the New Orleans Steamship Association (NOSA) setting forth the method of funding and implementing the Guaranteed Annual Income Plan (GAI Plan) negotiated with the New Orleans Locals of the International Longshoremen's Association, AFL-CIO (ILA). The purpose of the modification is to delete Article 5 of the basic agreement, by which banana cargoes were excluded from cargo subject to the assessments provided for by the agreement.

By Order of the Federal Maritime Commission.

Dated: June 20, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-19664 Filed 6-22-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-62]

Allied Chemical International Corp. v. Farrell Lines, Inc., Notice of Filing of Complaint

Notice is given that a complaint filed by Allied Chemical International Corp. against Farrell Lines, Inc. was served June 15, 1979. The complaint alleges that respondent has assessed charges for ocean transportation in excess of those lawfully applicable in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before December 15, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-19622 Filed 6-22-79; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 16, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3815.

Filing Party: B. G. Masters, Deputy Port Director and Secretary-Treasurer, Port of Beaumont, P.O. Drawer 2297, Beaumont, Texas 77704.

Summary: Agreement No. T-3815, between the Port of Beaumont, Texas and Westway Trading Corporation provides for the lease of bulk liquid storage tanks owned by the Port of Beaumont to Westway Trading Corporation. The premises are leased to be used for the purpose of handling molasses, molasses products and other food products by pipeline between ships, barges, rail cars, trucks and track storage.

Agreement No.: T-3816.

Filing Party: Anthony J. Pruzinsky, Legal Dept., I. T. O. Corporation of Ameriport, 2500 Broadway, Camden, New Jersey 08104.

Summary: Agreement No. T-3816, between I. T. O. Corporation of Ameriport (ITO) and the Philadelphia Port Corporation (PPC), provides for the lease to ITO of 1.575 acres of land and three buildings at the Port of Philadelphia to be used for the repair and maintenance of mechanical equipment. As compensation ITO agrees to pay an annual rental of $40,008 plus an additional rental to cover the cost of improvements to the premises and, if necessary, any increases in real estate taxes or compensation for damage to the premises. After June 29, 1980, ITO will have the option to renew the lease for three successive five-year periods.

By Order of the Federal Maritime Commission.

Dated: June 20, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-19623 Filed 6-22-79; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt and Approval of Report Proposal

A request for emergency clearance of a new Transmittal Letter 1-79, and related forms was received from the Federal Maritime Commission by the Regulatory Reports Review Staff, GAO, on April 23, 1979. See U.S.C. 3512(c) and (d). The purpose of publishing this notice is to inform the public of such receipt and action taken by GAO.

Federal Maritime Commission

The Federal Maritime Commission requested clearance of a new Transmittal Letter 1-79 to Vessel Operating Common Carriers and Nonvessel Operating Common Carriers in the Domestic Offshore Commerce of the United States, and related Forms 274, Vessel Operating Common Carriers in the Domestic Offshore Commerce of the United States Fuel Surcharge Justification; Form 275, Fuel Surcharge Report; and Form 276 Non-Vessel Common Carriers in the Domestic Offshore Commerce of the United States Water Transportation Pass Thru. Section 531.18 of General Order 38 allows carriers to file for special permission to the Commission to request rate changes in order to amend their tariffs, and includes specific instances for these requests and the circumstances under which they will be granted. However, bunker (fueling) surcharges are not among the reasons. To address this special situation, the Commission had decided to grant a continuing special permission authority to allow domestic offshore carriers to file appropriate amendments (in supplement form containing an expiration date not later than 120 days after the effective date) to their respective tariffs, in order to establish surcharge provisions directly related to bunkering (fueling) cost increases. Additionally, Vessel Operating Common Carriers will be required to file a 90-day report to FMC reflecting their experience under the bunker surcharge increases and submitting their cost and consumption of fuels. FMC will allow the filing of tariffs, containing bunker surcharges constituting general rate increases on a 30-day notice period rather than on a 60-day notice period as previously required.

The FMC requested emergency clearance of Transmittal Letter 1-79 and the related forms, in anticipation of frequent requests from the carriers for special permission to deviate from Commission requirements with respect to bunker surcharges. This situation is occurring because of recent dramatic escalation in oil prices throughout the world, with little or no advance notice to carriers, which has had a serious financial impact on ocean common carriers in the domestic offshore trades. Also, the oil price situation is expected to continue to be volatile for the foreseeable future, and it is anticipated that increases will continue to be posted with little or no warning by suppliers of the amount or effective date. Therefore, FMC, in order to alleviate the financial impact on carriers being caused by the escalation in bunkering (fueling) costs, is issuing Transmittal Letter 1-79 and the related forms in order to allow the carriers to file supplements to their tariffs for bunker surcharges on a 30-day basis.

The GAO agreed to accept FMC's emergency request for clearance due to the exigent need of carriers in the domestic offshore commerce to recover the escalating cost of bunkering (fueling). The FMC estimates that the Transmittal Letter 1-79 and related Forms 274 and 275 will be sent to 49 vessel operating common carriers and that the Transmittal Letter and related Form 276 will be sent to 95 non-vessel operating common carriers. The response time for the initial Forms 274 and 276 is estimated to be 25 hours per response, and for the 90-day report, Form 275, the burden is estimated to be 8 hours per response.

After several changes were made, the GAO granted emergency clearance to Transmittal Letter 1-79 and related Forms 274, 275, and 276 on May 23, 1979, under numbers B-180233 (R0635), B-180233 (R0639), and B-180233 (R0640), respectively. These clearances expire on May 31, 1980.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 79-19652 Filed 6-22-79; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel on Architectural and Engineering Services; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 9, July 9th through July 13th, from 9:00 a.m. to 4:00 p.m., Hawaii Room, 28th Floor, 525 Market Street, San Francisco, California.

The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of engineers under consideration for selection to furnish professional services for seven proposed energy conservation studies at the following locations:

1. Honolulu, Hawaii.
2. Tucson and Phoenix, Arizona.
3. San Francisco, California.
4. Las Vegas, Nevada.
5. San Diego, Laguna Niguel, and Santa Ana, California.
6. Fresno, California.
7. Richmond and Sacramento, California.

The meeting will also be devoted to the selection of professional services for two proposed supplemental architect-engineer contracts and two proposed supplemental mechanical-electrical engineering contracts in Northern and Southern California. The meeting will be open to the public.

Dated: June 15, 1979.

Joseph B. Williams,

Regional Administrator.

[FR Doc. 79-19727 Filed 6-22-79; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Psychiatric Nursing Education Review Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of July 1979:

Psychiatric Nursing Education Review Committee—July 16–17.

Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Md.

Open—July 16, 9:00 a.m. to 1:00 p.m.

Closed—Otherwise.

Contact: Dr. Jeanette Chamberlain, Room 9C–24, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–4423.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychiatric nursing manpower development and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 1:00 p.m., July 16, the meeting will be open for administrative announcements and discussion of review criteria. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Paul Sirovatka, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301–443–4536.

Dated: June 19, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drub Abuse, and Mental Health Administration.

[FR Doc. 79-19582 Filed 6-22-79; 8:45 am]

BILLING CODE 4110-88-M

Office of the Assistant Secretary for Health

Select Panel for the Promotion of Child Health; Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the Select Panel for the Promotion of Child Health, established pursuant to Section 211 of the Health Services and Centers Amendments of 1978 (Pub. L. 95–626), will meet on Monday, July 9, at 9:00 a.m. in Room 607G1, on the sixth floor of the Hubert H. Humphrey Building, Third Street and Independence Avenue, SW., Washington, D.C. The Panel has responsibility for the formulation of national goals with respect to the promotion of the health status of children and expectant mothers, the development of a comprehensive national plan for the achievement of these goals and otherwise promoting the health of children in the United States, and, the transmittal of a report to the Secretary and the Congress detailing the comprehensive national plan and recommendations for administrative, legislative, and other actions necessary to implement this plan and to otherwise promote the health of children in the United States. This meeting of the Panel will be devoted to reviewing a preliminary outline of the Panel's report and a work plan proposing activities for the Panel in the coming year. Meetings of the Panel are open for public observation.

Further information on the Panel may be obtained by contacting Thomas P. Reutershan, Acting Staff Director, Select Panel for the Promotion of Child Health, Room 731G, Hubert H. Humphrey Building, 300 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 472–5588.

Dated: June 19, 1979.

Thomas P. Reutershan,

Acting Staff Director, Select Panel for the Promotion of Child Health.

[FR Doc. 79-19629 Filed 6-22-79; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Downstream Riverbank Stabilization Program Columbia Basin Project, Washington; Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental statement on the proposed Downstream Riverbank Stabilization Program, Columbia Basin Project. The Program is intended to provide measures to control landslides and slope failures on the banks of the Columbia River for 6 miles below Grand Coulee Dam.

The alternatives to be considered in the environmental statement include (1) to take no action; (2) to undertake stabilization measures without relocation of homes; (3) to relocate 1–50 residences and provide stabilization measures; (4) to relocate 51–100 residences and provide stabilization measures; (5) to relocate 101–300 residences and provide stabilization measures; and (6) the Bureau's preferred alternative which will differ somewhat

from any of the preceding alternatives, but which will be within the same range of stabilization measures and relocation. Stabilization measures include groundwater drainage, surfact-water drainage, riverbank erosion control, riverbotton erosion control, domestic irrigation control, and domestic water and waste water systems rehabilitation.

Environmental studies and preparation and processing of an environmetal impact statement for this propsed program will be in accordance with provisions of the National Environmental Policy Act of 1969 and will be accomplished unter new CEQ (Council on Environmental Quality) regulations published in the Federal Register on November 29, 1978.

To assure that all the full range of issues related to this proposal are discussed and all significant issues are identified, comments and suggestions are invited. Interested agencies, organizations, and individuals should write to or contact the Bureau of Reclamation at the address provided below. The contact person will be:

Dr. Ronald R. McKown, Project Environmentalist, Grand Coulee Project Office, Bureau of Reclamation, PO Box 620, Grand Coulee WA 99133, Telephone (509) 633-1360, Ext. 508.

Dated: June 15, 1979.

Aldon D. Nielsen,

Acting Commissioner of Reclamation.

[FR Doc. 79-19627 Filed 6-22-79; 8:45 am]

BILLING CODE 4310-09-M

Geological Survey

Known Recoverable Coal Resource Area; Emery, Utah

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Utah have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(44) Utah

Emery (Utah) Known Recoverable Coal Resource Area; April 1, 1977; 100,893 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: June 15, 1979.

J. S. Cragwall, Jr.,

Acting Director.

[FR Doc. 79-19639 Filed 6-22-79; 8:45 am]

BILLING CODE 4310-31-M

Known Recoverable Coal Resource Area; Hanna and Carbon Basins, Wyoming; Revision

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Wyoming have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(50) Wyoming

Revised Hanna and Carbon Basins (Wyoming) Known Recoverable Coal Resource Area (KRCRA); March 10, 1976; 15,947 acres were added to the KRCRA. Total area now classified for leasing is 238,657 acres.

A diagram showing the revised boundary and acreage of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: June 15, 1979.

J. S. Cragwall, Jr.,

Acting Director.

[FR Doc. 79-19638 Filed 6-22-79; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

[INT DES 79-34]

Notice of Availability of Draft Environmental Statement and Notice of Public Meetings on Proposed General Management Plan for Great Smoky Mountains National Park, Tennessee and North Carolina

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed General Management Plan for Great Smoky Mountains National Park, Tennessee and North Carolina.

The statment discusses proposals for the management, development and operation of the Great Smoky Mountains National Park.

Written comments on the Environmental Statement are invited and will be accepted until August 26, 1979. Comments should be addressed to the Regional Director, Southeast Region, or the Superintendent, Great Smoky Mountains National Park, at the addresses given below.

Copies are available from or for inspection at the following locations:

Regional Director, Southeast Region, National Park Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30349.

Superintendent, Chickamauga and Chattanooga National Military Park, P.O. Box 2126, Fort Oglethorpe, Georgia 30742.

Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tennessee 37738.

Public meetings on the proposals contained in this statement and associated General Management Plan will be held as follows:

Date: July 25, 1979
Time: 7:30 p.m.
Address: Haywood County Courthouse, Waynesville, North Carolina.

Date: July 26, 1979
Time: 7:30 p.m.
Address: General Sessions Courtroom, Blount County Courthouse, Maryville, Tennessee.

Comments on this statement can be submitted at these meetings, as well as being submitted in writing to the above addresses.

The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: June 18, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-19625 Filed 6-22-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Sunday, July 29, 1979, starting at 1:00 p.m., at the Stapleton Plaza, 3333 Quebec Street, Denver, Colorado 80207.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittee's reports and recommendations as to future thrusts of the Institute.

Allen F. Breed,

Director.

[FR Doc. 79-19640 Filed 6-22-79; 8:45 am]

BILLING CODE 4410-05-M

Law Enforcement Assistance Administration

National Institute of Law Enforcement and Criminal Justice; Notice of Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant program to evaluate the Commercial Security Field Test Program. The objectives of this evaluation are:

- To test the Field Test project's ability to meet the requirements of the Final Field Test Program Design.
- To identify the intermediate and ultimate outcomes of this action and examine the effectiveness of the design and the implemented projects with respect to these outcomes.
- To measure the level of adoption of the Field Test concept at the local level and elsewhere.
- To identify needed changes in the original Field Test Design based on the finding of the evaluation.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered all paper must be postmarked no later than July 22, 1979. This grant is planned for award in September, 1979 with funding support not to exceed $400,000 for 24 months duration. Because this is a grant no fees are allowed.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Richard M. Rau, Office of Program Evaluation, NILECJ, 633 Indiana Avenue, NW., Washington, D.C. 20531 or (301) 492-9085.

Harry M. Bratt,

Acting Director, NILECJ.

[FR Doc. 79-19626 Filed 6-22-79; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee on Science and Society; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee on Science and Society.

Date, time & place: July 11 and 12—9 a.m. to 5 p.m., July 13-9 a.m. to 1 p.m., Room 651, 5225 Wisconsin Avenue, NW., Washington, D. C. 20550.

Contact person: Marian Scheiner, Administrative Assistant, Office of Science and Society, National Science Foundation, Room W-657, Washington, D.C. 20550 Telephone 202-282-7770.

Type of meeting: Open.

Purpose of meeting: To identify problems and priorities and to increase the effectiveness of the Office of Science and Society (OSS) and its constituent programs.

Agenda:

July 11—9:00-5:00 Subcommittee on Oversight.

July 12—9:00-9:30 Review of Congressional Actions (Dr. Morin).

9:30-12:30 Public understanding of science: goals and priorities (Mr. Tressel).

12:30-1:30 Lunch.

1:30-5:00 OSS goals and priorities (discussion to continue on Friday if necessary).

July 13—9:00-10:00 Recommendations of Subcommittee on Oversight (Mrs. Everett).

10:00-10:30 Statement to Science Education Advisory Committee (Dr. Grobstein).

10:30-12:00 Guidelines for Public Service Science Centers (Dr. Hollander).

12:00-1:00 New business.

Summary minutes: May be obtained from Marian Scheiner, Contact Person at the address given above.

M. Rebecca Winkler,

Committee Management Coordinator.

June 20, 1979.

[FR Doc. 79-19661 Filed 6-22-79; 8:45]

BILLING CODE 7555-01-M

National Science Foundation Advisory Council Task Group No. 6; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463; the National Science Foundation announces the following meeting:

Name: Task Group No. 6 of the NSF Advisory Council.

Place: Room 523, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Date: Thursday, July 26, 1979.

Time: 9:00 a.m. until 5:00 p.m.

Type of Meeting: Open.

Contact Person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW, Washington, D.C. 20550. Telephone (202) 632-4368.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street, NW, Washington, D.C. 20550.

Agenda: To examine the process that has been used by NSF in allocating its resources to different fields and programs, and to make any suggestions it deems appropriate to modify or improve on existing procedures.

Dated: June 20, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-19657 Filed 6-22-79; 8:45 am]

BILLING CODE 7555-01-M

National Science Foundation Advisory Council Task Group No. 5; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463; the National Science Foundation announces the following meeting:

Name: Task Group No. 5 of the NSF Advisory Council.

Place: Room 523, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Date: Friday, July 13, 1979.

Time: 9:00 a.m. until 5:00 p.m.

Type of Meeting: Open.

Contact Person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW, Washington, D.C. 20550. Telephone (202) 632-4368.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street, NW, Washington, D.C. 20550.

Agenda: To provide information and analysis of equipment needs and utilization.

Dated: June 20, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-19659 Filed 6-22-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee for Oceanography Project Support of the Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Oceanography Project Support.

Date and time: July 23 and 24, 1979, 9:00 a.m. to 6:00 p.m. each.

Place: Rooms 510, 536, 628, and 642, National Science Foundation, 1800 G Street NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Robert E. Wall, Head, Oceanography Section, Room 611, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4227.

Purpose of meeting: To provide advice and recommendations concerning support for research in Oceanography.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature,including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determination by the Acting Director, NSF, on February 18, 1977.

Dated: June 20, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc.79-19658 Filed 6-22-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Millimeter Wave Facilities of the Advisory Committee for Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Millimeter Wave Facilities of the Advisory Committee for Astronomical Sciences.

Date and time: July 16 and 17, 1979; 9 a.m. to 5 p.m. both days.

Place: National Science Foundation, Room 543, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Open 9 a.m. to 5 p.m.—July 16, 1979. Closed 9 a.m. to 5 p.m.—July 17, 1979.

Contact person: Lawrence K. Randall, Project Officer, Astronomy Centers Section, Division of Astronomical Sciences, Room 618, National Science Foundation, Washington, D.C. 20550. Telephone 202-632-7880.

Summary report: May be obtained from the Director of the Division of Astronomical Sciences, National Science Foundation, Room 615, Washington, D.C. 20550.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research facilities in the field of millimeter wave astronomy.

Agenda:

July 16, 9:00 a.m.—5:00 p.m. (open) Presentations and discussion of the feasibility of construction, the sky coverage and effect on scientific results of different types of milimeter wave telescopes. Also discussion of the science, operations cost, logistical problems and technical support problems of sites on Mauna Kea, Hawaii, and in the states of Arizona and Nevada.

July 17, 9:00 a.m.-5:00 p.m. (closed) Review of proposal for the building of new millimeter wave telescope facilities.

Reason for closing: The proposal being reviewed includes information of a proprietary or confidential nature, technical information, and personal information concerning individuals associated with the proposal. These matters are within the exemptions (4) and (6) of 5 U.S.C. 552 b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: June 20, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-19660 Filed 6-22-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Reactor Safety Research Subcommittee; Meeting

The ACRS Reactor Safety Research Subcommittee will hold an open meeting on July 10, 1979, in Room 4203, New Executive Office Building, 17th St. NW., (between H Street and Pennsylvania Avenue) Washington, DC 20555 Notice of this meeting was published May 24, 1979 (44 FR 30177).

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 by 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:

Tuesday, July 10, 1979.

The meeting will commence at 8:30 a.m.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exhange their preliminary opinions regarding matters which should be considered during the meeting.

At the conculsion of the Executive Session, the Subcommittee will hold discussions with representatives of the NRC Staff, and their consultants, regarding reactor safety research and may prepare a draft report to the full Committee on the proposed FY-81 research budget.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Fedeal Employee for this meeting, Dr. Thomas G. McCreless, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: June 19, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-19470 Filed 6-22-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittees on Metal Components and Combination of Dynamic Loads; Joint Meeting

The ACRS Subcommittees on Metal Components and Combination of Dynamic Loads will hold a joint open meeting on July 10 and 11, 1978 in Room 1046, 1717 H St., N.W., Washington, DC 20555, to discuss the NRC Safety Research Program on Metallurgy and Materials, and the NRC Staff's basis and philosophy for the combination of dynamic loads on systems, structures and components. Also, recent plant shutdowns due to inadequate seismic protection of some safety related piping systems, will be discussed.

In accordance with the procedures outlined in the Federal Register on Oct. 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 by 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:

Tuesday, July 10 and Wednesday, July 11, 1979, 8:30 a.m. until the conclusion of business each day.

The Subcommittee 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, and their consultants, pertinent to the agenda items.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Elpidio G. Igne, (telephone 202/634–3314) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: June 19, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-19489 Filed 6-22-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Request for Public Comment on Proposed Criteria for Use in Implementing Executive Order 12129; Critical Energy Facility Program

June 19, 1979.

AGENCY: Office of Management and Budget.

ACTION: Request for public comment on proposal to implement the Critical Energy Facility Program.

SUMMARY: Public comment is requested on the accompanying criteria, proposed by the Office of Management and Budget for use in selecting non-nuclear energy facilities for inclusion in the Critical Energy Facility Program pursuant to Executive Order 12129. (44 FR 21001, April 9, 1979)

Public recommendations are requested as to specific facilities which should be considered for inclusion in the program. Such recommendations should be accompanied by an explanation of the reasons why the recommended facility should be considered for inclusion under the proposed criteria or alternative criteria recommended by the commenting party.

DATES: Comments must be received on or before Friday, July 20, 1979.

ADDRESS: Send comments to: The Associate Director for Natural Resources, Energy and Science, Room 262, Old Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Ron Kienlen, Room 465, Old Executive Office Building, Washington, D.C. 20503, Phone 395–5600.

SUPPLEMENTARY INFORMATION: Executive Order 12129 directs the Director of the Office of Management and Budget to establish a Critical Energy Facility program in order to provide for timely coordinated Federal decisions on permit applications for non-nuclear energy facilities which the President deems to be of critical national importance. The following criteria are proposed for use by the Office of Management and Budget in fulfilling its responsibility to make recommendations to the President as to which non-nuclear energy facilities should be included in the Critical Energy Facility Program. Briefly, recommendations for inclusion will be based on the national importance of a facility, the degree of Federal involvement by covered agencies, and the need for timely, coordinated Federal decisionmaking as indicated by the number and complexity of Federal review requirements.

Proposed Criteria

Office of Management and Budget Executive Order 12129

Pursuant to Executive Order 12129, the Office of Management and Budget proposes to use the following criteria in developing recommendations to the President as to which non-nuclear energy facilities should be included in the Critical Facilities Program.

1. *Critical National Importance.* Those facilities will be considered for inclusion for which Federal agency decisions are of critical national importance because, if constructed and operated as proposed:

a. the facility's operation could yield a substantial reduction in oil imports; or

b. the facility would embody a new, untested technology with significant potential for substantial future import reductions; or

c. the facility could produce substantial national economic benefits; or

d. the facility could yield a substantial reduction in consumer costs; or

e. the facility could benefit the national security.

2. *Significant Federal Involvement.* Given that the purpose of the Critical Energy Facility Program, is to provide for timely coordinated Federal decisions, a facility must be subject to significant Federal reviews by participating agencies with some likelihood of delay in order to be considered for inclusion. This criterion will exclude facilities for which decisions by covered Federal agencies are not essential to the facility's progress, and facilities for which there is little probability of delay due to Federal review process.

Issued in Washington, D.C., on the 18th day of June 1979.

Eliot R. Cutler,

Associate Director for Natural Resources, Energy and Science.

[FR Doc. 79-19655 Filed 6-22-79; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping

requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each agency contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Manager, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447–6202

Revisions

Agricultural Stabilization and Conservation Service
*Water Bank Program
ASCS– 691 and 692
On occasion
Description not furnished by agency, 7,000 responses; 2,700 hours
Charles A. Filett, 395–5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377–4217

New Forms

Economic Development Administration
Preliminary Plan for Data Collection Forms for the Evaluation of EDA Business Financing Activities
ED–4480
Single time
Business and local government officials
Richard Sheppard, 395–3211

Revisions

Bureau of the Census
Report of Building Permits Issued and Local Public Construction
C404
Monthly
Local government building permit office, 115,000 responses; 34,000 hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697–1195

Extensions

Department of the Air Force
*Tureine Wheel Historical Record
AFTC Form 44
On occasion
Description not furnished by agency, 6,000 responses; 2,000 hours
David P. Caywood, 395–6140

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245–7488

New Forms

National Institutes of Health
Interdisciplinary Assessment of Fertility Management in a High Fertility Community
Single time
Description not furnished by agency
Richard Eisinger, 395–3214

Office of Human Development
Survey Instrument for Evaluation of Blind and Visually Handicapped Programs
Single time
State VR agencies serving blind clients, 56 responses; 42 hours
Barbara F. Young, 395–6132

Revisions

Public Health Service
*Master Facility Inventory/Agency Reporting System
On occasion
Nursing homes and other health facilities in non-CRSS States, 7,000 responses; 2,170 hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755–5190

New Forms

Community Planning and Development
Section 8 Housing Assistance Payments Program—APP for Moderate Rehabilitation
HUD–52515A
On occasion
PHA's who want to administer TPF moderate rehabilitation program, 900 responses; 7,200 hours
Budget Review Division, 395–4775

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Laure—633–3526

New Forms

Law Enforcement Assistance Administration
1979 Census of State Audit Correctional Facilities
CJ– 43 and 42 (DPAA Series 3400)
Single time
State correctional facilities, 790 responses; 790 hours
Office of Federal Statistical Policy and Standard, 673–7974

Offices, Boards, Division

Questionnaire on Judicial Conduct Organizations
Single time
Commissioners of Judicial Disciplinary Commission, State judges, 1,300 responses; 650 hours
Richard Sheppard, 395–3211

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

New Forms

Employment and Training Administration
*PSIP Progress Report
ETA–20
Monthly
State and local agencies, 2,300 responses; 1,150 hours
Arnold Strasser, 395–5080

Employment and Training Administration
Quarterly Report on ESE transition plan
ETA–21
Quarterly, State and Local Agencies, 1,400 responses; 1,400 hours
Budget Review Division, 395–4775

Revisions

Employment and Training Administration
Interstate Arrangement for Combining Employment and Wages
ETA 586
Quarterly
State Employment Security Offices, 212 responses; 636 hours
Arnold Strasser, 395–5080

Employment and Training Administration
Claims and Payment Activities
ETA 5159
Monthly
State Employment Security Offices, 636 responses; 1,908 hours
Arnold Strasser, 395–5080

Extensions

Employment and Training Administration
Apprenticeship Information Centers Monthly Report
ETA 5157
Quarterly
Apprenticeship Information Centers, 168 responses; 504 hours
Arnold Strasser, 395–5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

New Forms

Federal Highway Administration
Motorist Attitude Survey
Single Time
Passenger Car Drivers, 2,430 responses; 802 hours
Susan E. Geiger, 395–5867

Revisions

Federal Aviation Administration
Recording of Aircraft Conveyances and Security
Documents
On Occasion
Civil Aircraft Owners and Leinholders, 125,000 responses; 125,000 hours
Susan X. Geiger, 395–5867

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Sally E. Crocker—634–6983

Extensions

Apprenticeship Information Report
EEOCXXXX 273
Annually
Firms with 100+ Employees and 5+ Apprentices, 4,000 responses; 8,000 hours
C. Louis Kincannon, 395–3772

Local Union Report
EEOC 274
Annually
Local Unions with 100+ members, 25,000 responses; 37,500 hours
C. Louis Kincannon, 395–3772

Apprenticeship Information Report
EEO–2
EEOC 272
Annually
Selected Committees With 5+ Apprentices, 5,000 responses; 10,000 hours
C. Louis Kincannon, 395–3772

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Office—John P. Weld—632–7737

New Forms

Assessment of Senior Level Examining Procedures
E610
Single Time
Applicants for GS–14/15 jobs, 200 responses; 17 hours
Marsha D. Traynham, 395–6140

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79–19672 Filed 6–22–79; 8:45 am]

BILLING CODE 3110–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Creation of Committee on Procedures

On April 10, 1979, the Chairman of the Pennsylvania Avenue Development Corporation appointed five members of the Board of Directors to constitute an Advisory Committee on Procedures. On May 24, 1979, the Board approved a resolution defining the scope of work for the Committee to pursue and directed the invitation of public comment.

The Board of Directors resolved that the Advisory Committee on Procedures have the following scope of work and responsibilities: (1) to assemble and review all materials reflecting the Corporation's policies and procedures for selecting developers and approving development plans; (2) to recommend to the Board any changes or additions to such policies and procedures; and (3) to prepare a compilation of applicable policies and procedures for use as a guide for developers, property owners, businesses, community groups, and the general public, explaining the Corporation's development, and review and approval policies and procedures.

To carry out its responsibilities, the Committee will meet from time to time with members of the Corporation's staff and prepare such materials, reports and recommendations as it deems appropriate. To make this process most productive, the public is invited to submit written comments within the next 45 days on the development policies and operations of the Corporation. Written comments and inquiries should be addressed to:

Peter T. Meszoly, General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street NW., Suite 1148, Washington, D.C., 20004; telephone: (202) 566–1078.

Dated: June 8, 1979.

Peter T. Meszoly,

Assistant Director and General Counsel.

[FR Doc. 79–19641 Filed 6–22–79; 8:45 am]

BILING CODE 7630–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–15931; File No. SR–CBOE–1979–6]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is

hereby given that on May 30, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Chicago Board Options Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Rule 2.22 of the Rules and Regulations of the Chicago Board Options Exchange, Incorporated ("Exchange"), the Exchange has determined to revise certain of its existing charges and fees, effective July 1, 1979, as more fully described below:

Description	Fee Amount	
	Present	Proposed
Trade Match Fees Per Contract Side	$.01	$.02
Membership Application Fees:		
Firm	$1,000	$1,250
Individual	750	1,000
Renewal	300	500
Limited Partner	250	500
Seat Lease	250	500
Joint Account	250	500
Membership Transfer	250	

Chicago Board Options Exchange's Statement of Basis and Purpose Under the Act for the Proposed Rules Change

The revised fees and charges will permit the Exchange to increase revenues consistent with the equitable allocation of charges for services performed.

The increase in fees for trade match service from $.01 to $.02 to per contract side will help to offset costs incurred in the development and operation of the computerized system which processes trading data. Over the past two years the CBOE trade comparison system has been modified extensively so that it provides a maximum number of comparisons. The increased comparisons ease the workload of member firms and decrease problems associated with out-trades. Since the trade match charges are tied to volume, they will be equitably borne by the users of the system.

The increase in certain memberships application fees has also been designed with a view to making users of membership department services bear the associated costs. The existing rates have not been adjusted since January 1, 1976 while associated costs have been rising.

The basis under the Act for the proposed rule change is Section 6(b)(4) which requires the equitable allocation of fees and charges among members of the Exchange. The Exchange believes that its proposed schedule of fees and charges will permit it to allocate, on a fair and equitable basis, the cost of certain services provided by the Exchange among those members who avail themselves of and benefit from the subject Exchange services.

Comments have not been solicited or received with respect to the proposed rule change.

The Exchange believes that no burden on competition will be imposed through the implementation of the fee schedule proposed above.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 16, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

June 18, 1979.

[FR Doc. 79-19690 Filed 6-22-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-15930; File No. SR-NYSE-79-24]

New York Stock Exchange; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) (the "Act"), notice is hereby given that on June 1, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of Proposed Rule Change by the New York Stock Exchange, Inc. ("NYSE")

(New language italicized, deleted language in brackets [ ])

2440] Odd Lot Transactions by Odd Lot Dealers

Rule 440] [Reports on Form 600-A]

[.10 When and by whom reports are to be submitted.—]

[(1)] Each member organization and each individual member who is not associated with a member organization as a member who makes transactions on the Floor of the Exchange as an odd lot dealer shall be required to [submit to the Controller's Department a report showing the aggregate share volume of his or its odd lot purchases and sales effected on the Exchange during the preceding month] *pay to the Exchange with respect to such transactions, such charge, subject to the provisions of the second paragraph of Section 2 of Article X of the Exchange's Constitution, as may from time to time be fixed and imposed by the Board of Directors. The amount of such charge, the times at which such charge shall be payable and the manner in which it shall be collectible shall from time to time be determined by the Board. The Controller's Department will issue appropriate instructions from time to time implementing the determinations made by the Board with respect to the amount, time and manner of payment of the above mentioned charge.*

[(2) These reports are to be made on Form 600-A and are to be filed on or before the 18th day following the month covered by the report unless the Exchange is closed on such day, in which event the report is to be filed on the next business day.]

[(3) A member who transfers his membership or member organization which dissolves will be required to file a report covering transactions previously unreported.]

[.20 Contents of report.—]

[Item (1) on Form 600-A.—Report the total of all odd lot purchases effected on the Floor of the Exchange as an odd lot dealer.]

[Item (2) on Form 600-A.—Report the total of all odd lot sales effected on the Floor of the Exchange as an odd lot dealer.]

[.30 Miscellaneous instruction regarding Form 600-A.—]

[(1) Information reported on Form 600-A may be based either on trade or on

blotter dates. The method elected should be followed on all monthly reports.]

[(2) The amount of the charge authorized by the second paragraph of Section 2 of Article X of the Constitution, the time on which such charge is payable and the manner in which it is collectible are from time to time determined by the Board. The Controller's Department will issue appropriate instructions from time to time implementing the determinations made by the Board with respect to the amount, time and manner of payment of the above mentioned charge.]

[(3) A report submitted by a member organization should bear the individual signature of a general partner in that firm, or an officer who is a holder of voting stock in that corporation, and a report submitted by an individual member should bear his signature.]

[(4) Additional copies of Form 600–A may be obtained at the Mailing Division.]

Purpose of Proposed Rule Change

The purpose of the proposed rule change is to eliminate the required filing of Form 600–A. The Exchange previously asked specialists and odd-lot dealers to file Form 600–A each month indicating odd lot shares purchased and sold in the previous month which were subject to the one-eighth of one cent per share charge imposed under Section 2 of Article X of the Exchange's Constitution. Henceforth, the odd-lot transaction date needed to calculate this fee will be gathered from automated reports available to the exchange, and the Exchange will issue an invoice to each specialist odd lot dealer each month including the charge previously indicated on Form 600–A.

Basin Under the Act for Proposed Change

The proposed rule change eliminates the need for specialists operating as odd lot dealers to file Form 600–A with the Exchange each month and allows the Board to determine the manner of collection of such charges previously indicated on Form 600–A. The NYSE believes that the completion of Form 600–A is no longer necessary to assure calculation and collection of the odd-lot charges stipulated by Article X, Section 2 of the NYSE Constitution. Accordingly, the NYSE cites Section 6(b)(5) of the Act as the statutory basis for this proposal because Section 6(b)(5) requires, among other things, that the rules of a national securities exchange not be designed to regulate matters unrelated to the purposes of the Act or the administration of the exchange.

Comments Received From Members Participants or Others on Proposed Rule Change

The NYSE has not solicited comments regarding the proposed change, nor has the NYSE received any comments from members or others.

Basis for Rule Change Being Put Into Effect Pursuant to Section 19(b)(3)

In accordance with Section 19(b)(3)(A)(ii), the proposed rule change takes effect immediately upon the close of business on May 31, 1979, as it changes the method of collection of a due, fee or other charge.

At any time within sixty days of the date of filing of this proposed rule change, the Commission summarily may abrogate the change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 16, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

June 18, 1979.

[FR Doc. 79-19691 Filed 6-22-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-082]

Environmental Impact Statements; Revised Procedures for Considering Environmental Impacts

AGENCY: Coast Guard, DOT.

ACTION: Notice of revision of agency procedures.

SUMMARY: This document provides notice of an amendment that the Coast Guard has made to its Commandant Instruction on Procedures for Considering Environmental Impacts. The primary effect of this amendment is to delegate authority to District level personnel for the final review and approval of certain environmental impact statements and related documents. These actions have been taken in order to streamline and decentralize Coast Guard procedures for considering environmental impacts so that more responsive and timely service may be provided to the public.

FOR FURTHER INFORMATION CONTACT: Nick E. Mpras, Chief, Bridge Permits Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Telephone: (202) 426–0942

SUPPLEMENTARY INFORMATION: The amendment described in this document has been made to Commandant Instruction 16475.1 (formerly 5922.10B) entitled "Procedures for Considering Environmental Impacts," which was published in the **Federal Register** on October 22, 1975 (40 FR 49383). This amendment delegates to District Commanders the authority to approve certain environmental impact statements required under the National Environmental Policy Act and determinations for which additional environmental analysis must be made under section 4(f) of the Department of Transportation Act. This delegation applies to all such documents that do not require concurrence by the Office of the Secretary of Transportation. District legal officers have been delegated the authority to conduct the final review of environmental impact statements and section 4(f) determinations approved by the District Commanders. The Chief Counsel's Office within Coast Guard Headquarters has consequently been relieved of this responsibility. The Chief, Office of Marine Environment and Systems has been delegated the authority to approve all environmental impact statements and section 4(f) determinations which are not approved by the District Commanders under this amendment. Some renumbering of sections has been necessary in order to accommodate these changes.

In addition, sections of the Commandant Instruction have been revised under this amendment to reflect the Department of Transportation's redesignation of the Office of the Assistant Secretary for Environment,

Safety and Consumer Affairs (TES) as the Office of the Assistant Secretary for Policy and International Affairs (P). Other sections have been revised to incorporate references to the Council on Environmental Quality (CEQ) regulations (43 FR 55978—56007, November 29, 1978) which on July 30, 1979 will supersede the CEQ guidelines presently in effect. The following is the full text of the amendment and revisions described above:

Commandant Instruction 16475.1

Subj: Procedures for considering environmental impacts.

* * * * *

8. * * *

d. The Chief, Marine Environmental Protection Division (G–WEP) shall:

* * * * *

(5) Maintain and transmit quarterly to EPA and the Office of the Assistant Secretary for Policy and International Affairs (P) a current list of all administrative actions for which environmental statements are being prepared and of all negative declarations prepared during the quarter. This list shall be made available for public inspection on request.

(6) Coordinate the review of non-Coast Guard environmental impact statements received from other Federal agencies.

(7) Transmit all draft environmental impact statements to EPA (five copies), and P (two copies).

(8) After appropriate review, OST concurrence, where required, and approval have been obtained, transmit statements to EPA (five copies).

(9) Provide procedural support in the preparation and review of environmental impact statements.

(10) Maintain file copies of environmental impact statements and negative declarations prepared by the Coast Guard.

Maintain mailing lists of parties interested in Coast Guard environmental impact statements to include agencies appearing in enclosure (5).

e. The Chief, Office of Marine Environment and Systems (G–W), shall:

(1) As Department of Transportation (DOT) Coordinator for Water Resources, coordinate within DOT those comments and/or reviews of environmental impact statements pertaining to water resource projects made by the various agencies within DOT (including the Coast Guard).

(2) Provide technical support in the preparation and review of environmental impact statements.

(3) Have the authority to approve Coast Guard prepared EISs, except those that district commanders approve under subparagraph 8.k.(1) of this instruction.

(4) Have the authority to approve Coast Guard section 4(f) determinations, except those that district commanders approve under subparagraph 8.k.(2) of this instruction.

f. * * *

g. The Chief Counsel (G–L) shall:

(1) Review all legislative proposals originated by program managers, together with environmental impact statements or negative declarations thereto, to ensure that they comply with the provisions of NEPA, CEQ regulations and this instruction.

(2) Review recommendations or reports relating to legislation involving matters having to do with the quality of the human environment, referred by other agencies.

(3) Review all Coast Guard final EISs for legal sufficiency, except those for which review authority has been delegated to district legal officers under paragraph 8.h.(1) of this instruction.

(4) Review all Coast Guard section 4(f) determinations for legal sufficiency, except those for which review authority has been delegated to district legal officers under paragraph 8.h.(2) of this instruction.

(5) Provide advice and assistance in interpreting and applying NEPA, CEQ regulations and this instruction.

h. The district legal officers shall:

(1) Review for legal sufficiency Coast Guard prepared EISs for which the approval authority has been delegated to district commanders under paragraph 8.k.(1) of this instruction.

(2) Review for legal sufficiency Coast Guard section 4(f) determinations for which the approval authority has been delegated to district commanders under subparagraph 8.k.(2) of this instruction.

i. * * *

j. Program Directors shall:

(1) Prepare the necessary environmental assessments, impact statements or negative declarations for legislative recommendations and other actions arising at the Headquarters level in accordance with this instruction. Forward copies of environmental impact statements (number to be determined on an individual basis) to Commandant (G–WEP) for coordination outside of the Coast Guard.

(2) Review draft and final impact statements dealing with projects in the program area prepared by the district commander and forward 15 copies to Commandant (G–WEP) for transmittal to EPA and P.

(3) Review negative declarations dealing with projects in the program area that have been prepared by the district commander, as well as those prepared at Headquarters, and forward a copy including the environmental assessment to Commandant (G–WEP).

k. District commanders shall:

(1) Have the authority to approve Coast Guard prepared EISs for bridge permit actions that originate within their district, except those that require concurrence at the OST level in accordance with paragraph 9.c.(3) of the DOT Order.

(2) Have the authority to approve section 4(f) determinations for projects that originate within their district, except for those section 4(f) determinations that accompany an EIS for which concurrence at the OST level is required under paragraph 9.c.(3) OR (4) of the DOT Order.

(3) Prepare the necessary environmental assessments, impact statements or negative declarations for project and other actions originated within the district in accordance with this instruction.

(4) When necessary, solicit comments from Federal (at the local or regional office level), State, and local agencies and citizens groups to assist in the preparation of the environmental impact statement. Unless otherwise specified, draft environmental impact statements and copies of negative declarations are to be forwarded to the responsible program manager in Headquarters.

(5) Forward two (2) copies of all environmental assessments and negative declarations, and twenty (20) copies of all draft and final environmental impact statements to the responsible program office in Headquarters.

(6) When a draft environmental impact statement is completed, circulate copies to Federal, State and local agencies, and to the public. Notify Commandant (G–WEP) and the responsible Headquarters program office when this distribution is complete.

(7) After expiration of the draft statement comment period, prepare the final statement in accordance with enclosure (4). After the required review and approvals are obtained, distribute copies of the final statement to all agencies and individuals who were provided a copy of or commented substantively on the draft statement or who requested a copy of the final statement. Notify Commandant (G–WEP) and the responsible Headquarters program office when this distribution is complete.

(8) Maintain mailing lists of parties interested in Coast Guard environmental impact statements dealing with projects within the district in accordance with enclosure (4).

(9) Maintain and transmit to Commandant (G–WEP) quarterly, a current list of all administrative actions for which environmental statements are being prepared, and for which negative declarations have been prepared. This list shall be made available to the public upon request.

(10) When environmental impact statements are received from other Federal agencies:

(a) Review and, when appropriate, comment on all environmental impact statements received from other federal agencies. Comments should be as specific, substantive and factual as possible without due attention to matters of form of the statement. Emphasis should be placed primarily on the assessment of the environmental impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the action. Recommendations to modify the proposed action and/or new alternatives that will avoid or minimize environmental impacts may be made. Comments should be limited to Coast Guard areas of special expertise or jurisdiction by law as listed in enclosure (5). However, comments may be submitted on subjects outside Coast Guard areas, if an obvious question is raised.

(b) Those statements received by the district directly from the requesting agency, which contain technical details that are beyond the evaluation capabilities of the district staff, or are of a highly controversial nature, or which have significant effect or public interest beyond the district boundary shall be forwarded to the Commandant (G–WEP) for additional comment. In other cases, the district commander's comments shall be forwarded directly to the requesting agency, with a copy to Commandant (G–WEP), Office of Policy and International Affairs, Office of the Secretary of Transportation and the Regional Secretarial Representative. Pursuant to the CEQ regulations, one copy of the comments only shall be transmitted to EPA.

* * * * *

Dated: June 19, 1979.

F. P. Schubert,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-19696 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Outdoor Advertising Amendments Contained in the Surface Transportation Assistance Act of 1978; Issuance of Internal Document

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of issuance of internal document.

SUMMARY: The FHWA issues a notice of amendments to the Highway Beautification Act of 1965 (23 U.S.C. 131) regarding outdoor advertising, as contained in the Surface Transportation Assistance Act of 1978.

EFFECTIVE DATE: THE FHWA internal notice became effective on May 29, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Moeller, Chief, Junkyard and Outdoor Advertising Branch, (202) 245–0021, or Barbara S. Dalmut, Attorney, Office of the Chief Counsel, (202) 426–0800, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

Issued on: June 15, 1979.

L. P. Lamm,

Executive Director.

Outdoor Advertising Amendments Contained in the Surface Transportation Assistance Act of 1978

[FHWA Notice 6620.8]

1. *Purpose.* To report on amendments to the Highway Beautification Act of 1965 (23 U.S.C. 131) regarding outdoor advertising.

2. *Background.* The Surface Transportation Assistance Act (STAA) of 1978 includes the following amendments to 23 U.S.C. 131 relating to outdoor advertising control.

a. *Just Compensation*

(1) The first sentence of Section 131(g) of Title 23, U.S.C., was amended to read: (g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law *and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section.* (Italic material represents language inserted by the STAA.)

(2) Section 131(k) of Title 23, U.S.C., was amended to read:

(k) *Subject to compliance with subsection (g) of this section for the payment of just compensation,* nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section. (Italic material represents language inserted by the STAA.)

(3) The effect of these amendments is that all sign lawfully erected under State law within the control zone adjacent to the Interstate and Federal-aid primary hitghways and in existence on or after November 6, 1978, and those additional signs which were removed prior to November 6, 1978, but were the subject of litigation pending on that date are entitled to compensation. The Federal share of such compensation is 75 percent. This provision applies to all such signs not conforming to the definitions of 23 U.S.C. 131(c) and which are required to be removed by State or local law even if the law was not enacted for the purpose of complying with the Federal law.

(4) Any State which does not comply with these requirements will be in violation of the provisions of Section 131(b) subjecting the State to reduction of its Federal-aid highway apportionment.

b. *Permitted Signs*

(1) Section 131(c) has been amended to add the following category of permitted signs:

(1) Section 131(c) has been amended to add the following category of permitted signs: (5) signs, displays, and devices advertising the distribution of nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.

(2) Pursuant to this amendment States may allow the placement of signs off the right-of-way denoting the availability of free coffee distributed by nonprofit organizations at locations accessible to travelers on the Interstate and primary

systems. Such signs are presently permitted on the right-of-way under Section 2F-36 of the 1978 Manual on Uniform Traffic Control Devices.

c. *Electronic Signs*

(1) Section 131(c), clause (3), the exemption for on-premise signs is amended to read: (3) signs, displays, and devices *including those which may be changed at reasonable intervals by electronic process or by remote control,* advertising activities conducted on the property on which they are located and, . . . (italic material represents language inserted by the STAA.)

(2) Section 131(j):

(a) A parallel amendment inserted the following after the first sentence:

(j) Any State highway department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection the and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate system shall be entitled to receive the bonus payments as set forth in the agreement, but no such State highway department shall be entitled to such payments unless the State maintains the control required under such agreement. *Provided, that permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder.* (Underlined material represents language inserted by the STAA.)

(b) The effects of these amendments provide that the States which entered into an agreement to control outdoor advertising in accordance with the 1958 Bonus Act and the National Standards (23 CFR, Part 750, subpart A) may now allow the erection and maintenance of such electronic or changeable message signs as on-premise signs without violation of the terms of the agreement. Such on-premise signs had been prohibited only adjacent to the controlled portions of the Interstate System for the 23 bonus States. Thus, this amendment has no effect in the nonbonus States nor on the primary system controls in the bonus States. The amendment does not preclude the bonus States from continuing existing or such other controls as they deem necessary on such on-premise signs.

d. *Authorization for Appropriations*

The Act contained an authorization of $30 million for outdoor advertising control for fiscal years 1979, 1980, 1981, and 1982 out of general funds in the Treasury. The Appropriations Bill, however, provided only $13 million for both outdoor advertising and junkyard control for fiscal year 1979.

e. *Great River Road*

(1) Section 148 of Title 23 was amended to provide for the construction of such spur highways as deemed necessary to connect the Great River Road (GRR) with access to significant historical, archeological, or recreational features.

(2) Outdoor advertising control consistent with 23 U.S.C. 131 are required on the entire GRR system regardless of system designation.

(3) The effect of this amendment adds the requirement for such control to the spur highways which may be constructed to connect to the GRR.

3. *Action*

a. *States*

(1) The amendments require the States to assess the effect of the compensation requirements and what actions are required to comply. The States should consider appropriate legislative action, if required, to comply with the amendments.

(2) Signs informing the traveler of free coffee by nonprofit organizations may be permitted. States electing to permit this type of sign by amended State legislation or by amendment to State rules and regulations must do so in accordance with Federal law and regulations.

(3) The States are encouraged to expeditiously obligate the fiscal year 1979 Highway Beautification Program funds ($11,750,000) allocated on December 6, 1978, and to expend previously existing unexpended obligations.

(4) Outdoor advertising control consistent with 23 U.S.C. 131 along the entire GRR system, including spur highways, must be provided by all GRR States (Minnesota, Wisconsin, Iowa, Illinois, Missouri, Kentucky, Tennessee, Arkansas, Mississippi, and Louisiana). However, construction with GRR funds may proceed on those sections where outdoor advertising can be controlled, so long as GRR systemwide control is an ultimate State goal.

b. *The Federal Highway Administration*

The Federal Highway Administration will revise the National Bonus Standards to conform to the amendments relating to on-premise electronic signs. Bonus agreements need not be amended since they incorporate the National Bonus Standards.

[FR Doc. 79-19580 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-22-M

Materials Transportation Bureau

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments must be received on or before July 25, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor Vehicles, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

New Application

Application No.	Applicant	Regulation(s) affected	Nature of Application
8201-N	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.354(a)(6)	To authorize shipment of motor fuel antiknock compound in portable tanks meeting DOT specification 51 except for the ASME stamp. (Modes 1 and 3.)
8202-N	Prochem, Summit, N.J.	49 CFR 173.21(b)	To authorize shipment of 0.00125 kg of acetylene contained in a pyrex flask, five of which are individually enclosed in a cushion pack, then overpacked in a wooden box. (Modes 1 and 3.)
8204-N	Pacific Gas and Electric Co., San Francisco, Calif.	49 CFR 172.204	To authorize use of bills of lading with the shipper certification printed at the top instead of the bottom as prescribed, until depletion of existing stock. (Mode 1.)
8205-N	Roy E. Hanson, Jr., Manufacturing, Los Angeles, Calif.	49 CFR 178.343-3	To manufacture, mark and sell an MC-312 cargo tank with a 14×18-inch elliptical shaped manway, for transporting corrosive liquids and flammable liquids. (Mode 1.)
8206-N	Rexnord, Brookfield, Wis	49 CFR 173.245(a)(17), 178.131	To authorize shipment of certain corrosive liquids, n.o.s., in two 1-quart tin cans, overpacked in a modified 26-gage unlined DOT specification 37A 5-gallon steel drum also containing a 1-gallon tin can of nonhazardous resin mix. (Mode 1.)
8207-N	Rexnord, Brookfield, Wis	49 CFR 173.245(a)(17), 178.131	To authorize shipment of certain corrosive liquids, n.o.s., in a 1-quart tin can placed in a molded polyethylene liner, overpacked in a modified 28-gage unlined DOT specification 37A 2-gallon metal drum containing a nonhazard resin mix. (Mode 1.)
8209-N	Coastal Planes Airways Inc., Macon, Ga.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b) and Part 107 Appendix B.	To authorize carriage of class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8210-N	Paramount Leisure Industries, Scottsdale, Ariz.	49 CFR 173.217(a)	To authorize shipment of certain oxidizing materials in up to 20-pound, 2-mil polyethylene bags overpacked in plastic containers or fiberboard containers, further overpacked in a DOT specification 12A or 12B fiberboard box not exceeding 40 pounds gross weight. (Mode 1.)
8211-N	NCH Corporation, Irving, Tex	49 CFR 173.119(b), 178.131	To authorize shipment of certain flammable liquids having flash points above 20° in DOT specification 37A 22-gage, 7-gallon capacity steel drums. (Modes 1, 2, and 3.)
8212-N	The Embassy of Switzerland, Washington, D.C.	49 CFR 172.101, 175.30	To authorize shipment of rocket ammunition, class A or B explosive, by cargo-only aircraft. (Mode 4.)
8213-N	Trailmaster Tanks Inc., Fort Worth, Tex	49 CFR 173.119(a)(17), 173.245(a)(31), 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT specification MC-307 or MC-312 except for bottom outlet valve variation for the transport of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8214-N	Thiokol Corp., Brigham City, Utah	49 CFR Parts 171 thru 178	To qualify a passive restraint system containing class B and C explosives as a nonregulated material. (Modes 1, 2, and 4.)
8215-N	Olin Corp., East Alton, Ill.	49 CFR 173.60, 173.74, 173.78, 173.93, 173.101, 173.107.	To transport within plant over public highway, via private carriage, various class A, B and C explosives in DOT or non-DOT specification packagings to facilitate in-plant processing. (Mode 1.)
8217-N	Hugonnet, Paris, France	49 CFR part 173, subpart D, F, H, and K.	To authorize shipment of flammable liquids, corrosive liquids, poison B liquids, combustible liquids and ORM-A material in non-DOT specification ISO portable tanks. (Modes 1, 2, and 3.)
8218-N	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.93(a)(12)	To authorize shipment of a propellant explosive (solid) class B in non-DOT specification polyethylene-lined typar and in polyethylene lined woven polypropylene bags closed with metal tipper ties (BA 1022A). (Mode 1.)
8219-N	Hercules Inc., Wilmington, Del.	49 CFR 173.93	To authorize shipment of propellant explosive solid, class B in polyethylene lined polypropylene bag closed with metal tipper-ties (BA 2677). (Mode 1.)
8220-N	Applied Environments Corp., Van Nuys, Calif.	49 CFR 173.302(a), 175.3	To authorize shipment of air or nitrogen in non-DOT specification girth welded steel cylinders, maximum water capacity 30 cubic inches, maximum service pressure 6,000 psi. (Modes 1, 2, and 4.)
8221-N	Applied Environments Corp., Van Nuys, Calif.	49 CFR 173.302(a), 175.3	To authorize shipment of air or nitrogen in non-DOT specification girth welded steel cylinders, maximum water capacity 122 cubic inches, maximum service pressure 6,000 psi. (Modes 1, 2, and 4.)
8222-N	MI Engineering Ltd., Bradford, W. Yorkshire, England.	49 CFR 173.245	To authorize shipment of a corrosive liquid, n.o.s. in non-DOT specification IMCO type 1 portable tanks. (Modes 1 and 3.)
8223-N	State of Connecticut, New Britain, Conn.	49 CFR 173.395	To authorize one time shipment of radioactive material, group III type B in non-DOT specification lead lined welded steel container. (Mode 1.)
8224-N	National Tank Truck Carriers Inc., Washington, D.C.	49 CFR Part 173, Subpart F	To authorize transportation of various corrosive liquids in MC-310 and MC-311 cargo tanks equipped with bottom outlets. (Mode 1.)
8225-N	Hoover Universal Inc., Beatrice, Neb.	49 CFR 173.245, 173.249, 173.249a, 173.257, 173.263, 173.266, 173.272, 173.277, 173.292.	To manufacture, mark and sell a non-DOT specification rotationally molded, cross linked polyethylene portable tank for the shipment of corrosive liquids presently authorized in the DOT specification 34 container. (Modes 1 and 2.)
8226-N	Westerwalder Eisenwerk, Weitefeld/Sieg, West Germany.	49 CFR part 173, subpart D, E, F, and H.	To authorize shipment of various flammable liquid, combustible liquids, poison liquids, and oxidizers in non-DOT specification IMCO type I portable tanks. (Modes 1, 2, and 3.)
8227-N	Westerwalder Eisenwerk, Weitefeld/Sieg, West Germany.	49 CFR part 173, subpart D and F.	To authorize shipment of various flammable liquids, combustible liquids, and corrosive liquids, in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, and 3.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act.

(49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on June 15, 1979.

J. R. Grothe,

Chief, Exemptions Branch Office of Hazardous Materials Regulation, Materials Transportation Bureau.

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before July 10, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Application No.	Applicant	Renewal of exemption
2805-X	Allied Chemical Corporation, Morristown, N.J.	2805
3367-X	Air Products and Chemicals, Inc., Allentown, Pa.	3367
4575-X	ICI Americas Inc., Wilmington, Del.	4575
4612-X	MC/B Manufacturing Chemists, Inc., Cincinnati, Ohio (See Footnote 1).	4612
4719-X	Dow Chemical Co., Freeport, Tex.	4719
5403-X	Halliburton Services, Duncan, Okla. (See Footnote 2).	5403
6007-X	National Warehouses, Inc., Minneapolis, Minn.	6007
6128-X	Hapag-Lloyd AG, Hamburg, West Germany (See Footnote 3).	6128
6228-X	Air Products and Chemicals, Inc., Allentown, Pa.	6228
6253-X	Atlantic Cargo Services AB, Gothenburg, Sweden.	6253
6253-X	Robeco Chemicals, Inc., New York, N.Y.	6253
6253-X	Eurotainer S.A.R.L., Paris, France	6253
6253-X	Hapag-Lloyd AG, Hamburg, West Germany (See Footnote 4).	6253
6253-X	Bacardi International Limited, Hamilton, Bermuda.	6253
6253-X	Containertechnik Hamburg GMBH & Co., Hamburg, West Germany.	6253
6267-X	Bio-Lab, Inc., Conyers, Georgia	6267
6349-X	Kansas Refined Helium Co., Inc., Otis, Kan.	6349
6416-X	Allied Chemical Corporation, Morristown, N.J.	6416
6418-X	Great Lakes Chemical Corporation, West Lafayette, Ind (See Footnote 5).	6418
6543-X	Synthatron Corp., Parisppany, N.J. (See Footnote 6).	6543
6672-X	Chandler Evans Inc., West Harford, Conn. (See Footnote 7).	6672
6738-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6738
6738-X	Texas Eastman Co., Longview, Tex.	6738
6824-X	Georgia-Pacific Corp., Newport Beach, Calif.	6824
6824-X	Bio-Lab, Inc., Conyers, Georgia	6824
6844-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. (See Footnote 8).	6844
6883-X	Hedwin Corp., Baltimore, Md. (See Footnote 9).	6883
6922-X	Halocarbon Products Corp., Hackensack, N.J. (See Footnote 10).	6922
7282-X	M-R Plastics & Coatings, Inc., Maryland Heights, Mo.	7282
7423-X	Armco Inc., Middletown, Ohio	7423
7466-X	Firmenich Incorporated, Plainsboro, N.J. (See Footnote 11).	7466
7621-X	Great Lakes Chemical Corp., West Lafayette, Inc. (See Footnote 12).	7621
7666-X	Delta Steamship Lines, Inc., New Orleans, La.	7666
7685-X	Cordova Chemical Co., Sacramento, Calif.	7685
7857-X	W. P. Butterfield (Engineers) Ltd., West Yorkshire, England (See Footnote 13).	7857
7886-X	W. M. Barr & Company, Memphis, Tenn.	7886
7911-X	Lox Equipment Co., Livermore, Calif	7911
8005-X	Intsel Corporation, New York, N.Y.	8005
8012-X	Transcontainer Leasing, S.A., Geneva, Switzerland.	8012
8109-X	Fauvet Girel, Paris, France (See Footnote 14).	8109
8125-X	Fauvet Girel, Paris, France (See Footnote 15).	8125
2587-P	Mansfield Oxygen Corp., Mansfield, Ohio.	2587
6530-P	Red Ball Oxygen Co., Inc., Shreveport, La.	6530
6614-P	Willard Products, Redwood City, Calif.	6614
6614-P	Esbro Chemical, Redwood City, Calif.	6614
6858-P	Francosteel Corp., New York, N.Y.	6858
6919-P	Minnesota Gas Co., Minneapolis, Minn.	6919
6984-P	Kentucky ANFO, Inc., Madisonville, Ky.	6984
7052-P	Raytek, Inc., Mountain View, Calif.	7052
7820-P	CATU Containers, S.A., Geneva, Switzerland.	7820
7891-P	Federal Express Corp., Memphis, Tenn.	7891
7897-P	CATU Containers, S.A., Geneva, Switzerland.	7897
7983-P	Mallory Battery Co., Tarrytown, N.Y.	7983
8109-P	CATU Containers, S.A., Geneva, Switzerland.	8109
8110-P	CATU Containers, S.A., Geneva, Switzerland.	8110
8110-P	Eurotainer, Paris, France	8110
8226-P	Eisenbahn-Verkehrsmittel AG, Dusseldorf, West Germany.	8226
8226-P	Contrans, Gesellschaft Fur Containerverkehr MBH, Hamburg, West Germany.	8226
8227-P	Eisenbahn-Verkehrsmittel AG, Dusseldorf, West Germany.	8227
8227-P	Contrans, Gesellschaft Fur Containerverkehr MBH, Hamburg, West Germany.	8227

[1] Request modification of paragraph 7 to read "absorbent packaging material" instead of "incombustible material."

[2] To authorize cargo vessel as an additional mode of transportation.

[3] Request renewal and to provide for bottom outlet modification.

[4] Renewal and to provide for bottom outlet modification.

[5] To add an ethylene dibromide-chloropicrin (54/45%) mixture, as an additional commodity and to authorize the MC-310 and MC-312 cargo tanks as additional containers.

[6] To authorize dichlorosilane as an additional commodity.

[7] To authorize larger capacity cylinders not to exceed 177 cu. in. for shipment of various nonflammable gases.

[8] To authorize an additional "Dypak" non-DOT specification polyethylene container identical to that presently authorized except for opening/closure for the shipment of coal tar dye.

[9] To authorize sulfuric acid in concentration greater than 95 percent but not over 100.5 percent as an additional commodity.

[10] To authorize cargo vessel as an additional mode of transportation.

[11] Renewal and to provide for a can of 2 pound capacity for the shipment of flammable liquids.

[12] Request renewal of exemption for the shipment of chloropicrin in non-DOT specification portable tanks.

[13] Request renewal and reword tank description to read "non-insulated steel portable tank suitable for vacuum."

[14] To add additional tanks identical to those authorized, except for a reduction in volumetric capacity.

[15] To authorize increase in size of portable tank manhole from 18" diameter 20" diameter.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on June 15, 1979.

J. R. Groth,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-19086 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

[NHTSA Docket No. FE-76-01; Notice 6]

Passenger Automobile Fuel Economy Standards; Availability of Report

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of availability of report.

SUMMARY: This notice announces the availability of an agency report concerning informal requests by Ford Motor Company and General Motors Corporation to reduce the fuel economy standards for 1981–84 passenger automobiles. The report indicates that the requests do not provide a basis under applicable law for reducing these energy conservation measures. The agency is, of course, interested in comments. If interested persons have new items of information not previously considered by the agency or have comments about possible inaccuracies in the report that are believed to be significant enough to warrant opening of rulemaking on the fuel economy standards, they are entitled to file a petition for rulemaking.

ADDRESSES: Copies of the report are available from NHTSA's Office of Automotive Fuel Economy Standards, Room 4102, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley R. Scheiner, Office of Automotive Fuel Economy Standards (NRM–22), National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: On June 30, 1977, fuel economy standards for model year 1981–84 passenger automobiles were established at levels of 22, 24, 26, and 27 miles-per-gallon, respectively. See 42 FR 33534. Congress had established by statute the 1980 standard at 20 mpg and the 1985 standard at 27.5 mpg, and authorized the Secretary of Transportation to establish the 1981–84 standards administratively. In early January through May of this year, Ford Motor Company (Ford) and General Motors Corporation (GM) submitted to the agency documents arguing for a reduction in the 1981–84 fuel economy standards for passenger automobiles.[1] Ford and GM requested that the 1981–85 standards be reduced to levels requiring annual improvements in fuel economy of 1.5 mpg from the 1980 level (the "linear schedule"), or even lower levels.

Neither Ford nor GM formally petitioned the agency to reduce the fuel economy standards as specified under NHTSA's procedural regulations. Nevertheless, the agency concluded that the concern expressed by these manufacturers, other Federal agencies, and the Congress on this matter justified a thorough consideration of the Ford and GM requests. The report which the agency is making publicly available today summarizes the results of the NHTSA's examination of the issue.

Both GM and Ford argued that the additional fuel savings achieved with the current schedule of fuel economy standards (compared to the reduced standards) would be outweighed by the resulting increases in automobile prices, so that consumers would be worse off (in the sense of out-of-pocket expenses) with the current standards than with the reduced standards. Both companies argued in their submissions that the agency, in establishing the 1981–84 standards, had overestimated the fuel economy benefits of certain items of technology, and had underestimated the costs of implementing those improvements. They also argued that less stringent standards would permit substantial reductions in capital spending, and would lessen any financial uncertainties the companies had.

The basic conclusion in the report is that none of the arguments raised by Ford and GM state a case for which relief can be granted under Title V of the Motor Vehicle Information and Cost Savings Act. That Act requires that fuel economy standards be established at the maximum feasible level. Neither Ford nor GM argued that the current fuel economy standards are *infeasible;* in fact, both companies submitted plans for complying with the current standards. The agency's analysis of the information submitted by both companies indicates that the manufacturers' claim that consumers would receive greater net benefits under less stringent standards (i.e., the linear schedule) is incorrect. Under that analysis, which is based upon minor modifications to the manufacturers' own product plans, fuel economy benefits estimates, and price information, the nation's consumers would reap additional net benefits worth $500 to $680 million under the current standards as compared to the manufacturers' recommended standards.

The report does not consider the effects of the Environmental Protection Agency's future diesel particulate standard and the outcome of the request for waiver of the emission standard for oxides of nitrogen for diesel engines. When these issues are resolved by EPA, the NHTSA can consider their effect on the fuel economy standards. In the report being made publicly available today, the agency, for purposes of this analysis, has adopted the manufacturers' plans for use of diesel engines.

Another EPA-related issue involves recent changes to emissions standards and to related test procedures. Both Ford and GM have argued that these changes have impaired their ability to comply with fuel economy standards by producing measurable losses in fuel economy of test vehicles. The agency has analyzed these claims and the report includes an allowance for losses in this area which may occur. The allowance for changes in the stringency of the emission standards amounts to 0.8 mpg for GM and 0.6 mpg for Ford in 1980, gradually decreasing to zero for both companies by 1985. The allowance for test procedure changes is 0.5 mpg for 1980, gradually decreasing to 0.25 mpg by 1985 for both companies. It is noteworthy that even with these effects taken into account, the agency's analysis indicates that both manufacturers will be able to meet or exceed the current schedule of standards.

The agency has taken certain actions recently which should provide the manufacturers with additional flexibility in meeting the 1981–84 fuel economy standards. First, the agency is announcing today, elsewhere in this issue of the **Federal Register**, its decision to lower the fuel economy standards for 1981 model year two-wheel-drive light trucks. In that case, the manufacturers provided a basis under the statute for reducing the standards. That decision should ease the pressure on the manufacturers' resources for their fuel economy programs. Also, the agency recommended in its 1979 Report to the Congress that section 508 of the Motor Vehicle Information and Cost Savings Act be amended to permit monetary credits for exceeding fuel economy standards to be applied to civil penalties for failing to meet fuel economy standards in any of the three model years immediately preceding or following the year in which the credit is earned, rather than the one year carry-forward or carry-back of monetary credits permitted under the current law.

The agency's report on the 1981–84 fuel economy standards recognizes the serious consequences of our growing

[1] Copies of the nonconfidential portions of the materials relating to the Ford and GM requests are available for public inspection in the NHTSA Docket Room, Rom 5108 of the Nassif Building, during normal business hours. These materials are contained in Docket Number FE–76–01–N05.

reliance on imported petroleum. Although the report focuses on the consumer cost impacts of energy conservation, our reliance on imported petroleum also creates serious national security, balance of payments, and other effects. U.S. oil imports have increased 34 percent since the passage of the Energy Policy and Conservation Act in 1975. This increase reflects both increased domestic demand and an increase in the relative share of our demand which is met with imported petroleum. The share of our petroleum imports which comes from OPEC nations has also increased significantly since 1975, increasing our vulnerability to supply interruptions. The more than doubling of gasoline pump prices in the past five years is due in part to the approximately 800 percent increase since 1973 in the price we pay for imported petroleum. These factors combine to produce a projected national expenditure of approximately $50 billion for imported petroleum in 1979. Further, the difference in petroleum conservation between the current fuel economy standards schedule and the linear schedule advocated by Ford and GM is about 13 percent or 7.7 billion gallons over the life of the 1981–84 automobile fleets, and the total savings resulting from the current standards is 59.5 billion gallons compared to those resulting from maintaining the 1980 standards. The 7.7 billion gallon gasoline savings is worth approximately $3.7 billion, based on 1978 dollars and discounted to 1980.

Issued on June 20, 1979.

Joan Claybrook,

Administrator.

[FR Doc. 79-19686 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-59-M

Petitions To Commence Defect Proceeding; Denial

This notice sets forth the reasons for the denial of a petition to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On April 3, 1978, Frank J. Plantan of Euclid, Ohio, petitioned NHTSA to commence a defect proceeding with respect to allegedly severe reduced braking ability of the 1976 Chevrolet Chevette in wet weather. NHTSA thoroughly investigated the complaint, conducted water recovery tests specified in Federal Motor Vehicle Safety Standard No. 105–75, *Hydraulic Brake Systems*. These tests were conducted on complainant's vehicle, NHTSA's own 1976 Chevette, and NHTSA's 1977 Chevette converted to a 1976 model brake system. The water recovery performance of all three vehicles tested were within the parameters of the standard. Petitioner's vehicle did require stop pedal forces somewhat higher than experienced on the two other vehicles. NHTSA surmised that this was attributable to the generally worn out brake linings on petitioner's vehicle and the studded snow tires installed when the petitioner had made his own stopping measurements. NHTSA also reviewed its file of complaints on 1976–78 model Chevettes and discovered only two other reports of temporary reduction in brake effectiveness after driving through water or heavy rains. NHTSA concluded that there was no reasonable probability that the order requested would be issued at the conclusion of the investigation and on May 15, 1979 the petition was denied.

(Secs. 124, 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on June 18, 1979.

Lynn L. Bradford,

Acting Associate Administrator for Enforcement.

[FR Doc. 79-19633 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 12–79]

Interest Rate on Treasury Notes of Series U–1981

June 20, 1979.

The Secretary announced on June 19, 1979, that the interest rate on the notes designated Series U–1981, described in Department Circular—Public Debt Series—No. 12–79, dated June 14, 1979, will be 9⅛ percent. Interest on the notes will be payable at the rate of 9⅛ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 79-19632 Filed 6-22-79; 8:45 am]

BILLING CODE 4810-40-M

Carbon Steel Plate From Belgium, France, the Federal Republic of Germany, and Italy; Termination of Antidumping Investigations

AGENCY: U.S. Treasury Department.

ACTION: Termination of antidumping investigations.

SUMMARY: This notice is to advise the public that the antidumping investigations concerning carbon steel plate from Belgium, France, the Federal Republic of Germany, and Italy are being terminated. The termination is based on the withdrawal of the original antidumping petition, as detailed in the body of this notice and appendices hereto.

EFFECTIVE DATE: June 25, 1979.

FOR FURTHER INFORMATION CONTACT: Linda F. Potts, Assistant Director, Office of Tariff Affairs, U.S. Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone (202–566–2951).

SUPPLEMENTARY INFORMATION: On December 26, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of Lukens Steel Company, alleging that carbon steel plate from Belgium, France, the Federal Republic of Germany, Italy, and the United Kingdom is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

This information was the subject of an "Antidumping Proceeding Notice" which was published in the **Federal Register** of January 9, 1979 (44 FR 2053). The investigation as to the United Kingdom was terminated on February 28, 1979 (44 FR 11285).

Lukens Steel submitted a letter dated June 18, 1979, indicating a willingness to withdraw its petition if the Treasury agreed with certain understandings concerning Lukens Steel's right to refile its petition. On June 19, 1979, the Treasury Department confirmed these understandings in a letter and on June 19, 1979, Lukens Steel submitted a letter formally withdrawing its petition. These lettes are reproduced as appendices to this notice.

Treasury has been monitoring and will continue carefully to monitor entries of carbon steel plate under the trigger price mechanism and to take

appropriate action to ensure the effective enforcement of the Antidumping Act with respect to that product. In this connection, it should be noted, as indicated in the notice of proposed rulemaking regarding the Special Summary Steel Invoice (42 FR 65214), that Treasury views its authority to withhold appraisement retroactively in appropriate cases as an important tool for providing effective enforcement of the Antidumping Act.

Accordingly, I hereby conclude that based upon the withdrawal of the antidumping petition and in view of the fact that carbon steel plate is subject to the "trigger price mechanism" administered by this Department, it is appropriate to terminate these investigations. This termination is without prejudice to the filing of one or more subsequent antidumping petitions concerning the same product.

Robert H. Mundheim,

General Counsel of the Treasury.

June 20, 1979.

Thorp, Reed, & Armstrong,
Washington, D.C., June 18, 1979.

By Messenger

Robert H. Mundheim, Esquire,
General Counsel, Department of the Treasury, 15th & Pennsylvania Avenue, NW., Washington, D.C.

Re: Lukens Steel Company Antidumping Case

Dear Mr. Mundheim: On December 28, 1978, Lukens Steel Company ("Lukens") filed an Antidumping Petition with respect to carbon steel plate from Belgium, France, Germany, Italy and the United Kingdom. On January 9, 1979, an Antidumping Proceeding Notice was published (44 FR 2052). On February 28, 1979, the investigation was terminated as to the United Kingdom (44 FR 11285); but the investigation was continued as to the other four European countries.

Lukens has decided to withdraw its Antidumping Petition as to Belgium, France, Germany and Italy if Treasury accepts and expressly acknowledges the following:

(1) The withdrawal is without prejudice;

(2) The Treasury files pertaining to the Lukens Antidumping Petition will be retained for at least five years from the date on which the Petition is withdrawn; and

(3) Any subsequent filing with respect to the withdrawn Petition will be processed expeditiously using, among other things, the relevant information in these retained files and the accumulated expertise attained in the development of that information.

Upon receipt of your acceptance and acknowledgement of the above three points, Lukens promptly will provide you with a letter confirming the withdrawal of its Petition.

Very truly yours,

Roger M. Golden.

The General Counsel of the Treasury
Washington, D.C., June 19, 1979.

Dear Mr. Golden: Thank you for your letter of June 18, 1979, in which you indicate that based on certain understandings, Lukens Steel Company would withdraw its antidumping petition relating to carbon steel plate from Belgian, France, Germany, and Italy.

I want to confirm to you that Lukens Steel Company's withdrawal of its petition will be without prejudice to its right to refile antidumping petitions against Belgium, French, German, and Italian carbon steel plate at any time in the future. Moreover, I want to confirm that if Lukens Steel Company should refile an antidumping petition against such carbon steel plate, relevant evidence submitted or developed in connection with Lukens Steel's previous complaint will be used. As you may know, Treasury normally maintains its files for more than 5 years and would make no exception to that practice in this case. Finally, Treasury will expeditiously conclude its disposition of any refiled complaints on these products, utilizing all the relevant information contained in its files, including information obtained in updating and implementing the trigger price mechanism.

Please be assured that the Treasury Department will continue carefully to monitor carbon steel plate under the trigger price mechanism and will take appropriate action to ensure the effective enforcement of the Antidumping Act with respect to that product.

We will act on your withdrawal as soon as you give me formal notification that Lukens Steel Company is withdrawing its antidumping petition on carbon steel plate from Belgium, France, Germany, and Italy.

Sincerely yours,

Robert H. Mundheim.

Thorp, Reed, & Armstrong,
Washington, D.C., June 19, 1979.

By Messenger

Robert H. Mundheim, Esquire,
General Counsel, Department of the Treasury, 15th & Pennsylvania Avenue NW., Washington, D.C.

Re: Lukens Steel Company Antidumping Case

Dear Mr. Mundheim: Thank you for your letter of June 19, 1979, in which you confirm the understandings set forth in our letter of June 18, 1979.

This constitutes formal notification by Lukens Steel Company that it is withdrawing its Antidumping Petition on carbon steel plate from Belgium, France, Germany and Italy.

Very truly yours,

Roger M. Golden.

[FR Doc. 79-19689 Filed 6-22-79; 8:45 am]

BILLING CODE 4810-22-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules Station Committee on Educational Allowances that on 8-6-79 at 10:00 a.m. the VARO Indianapolis Station Committee Allowances shall at 575 N. Pennsylvania St. (New Federal Building) Room 347B conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Kokomo Aviation, Inc., R.R. 5 Municipal Airport, Kokomo, IN 46901, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: June 18, 1979.

Wm. H. Brewster,

Director.

VA Regional Office, 575 N. Pennsylvania St., Indianapolis, IN 46204.

[FR Doc. 79-19642 Filed 6-22-79; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 123
Monday, June 25, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1, 2
Federal Energy Regulatory Commission	3
Federal Home Loan Bank Board	4
Federal Mine Safety and Health Review Commission	5
National Commission on Libraries and Information Science	6
Nuclear Regulatory Commission	7

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m. on Monday, June 25, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550–17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed purchase of assets of and assumption of liability to pay deposits made in Liberty Bank & Trust Company, Durham, North Carolina, by The Planters National Bank and Trust Company, Rocky Mount, North Carolina.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, California, in connection with the receivership of United States National Bank, San Diego, California.

Meredith, Donnell & Edmonds, Corpus Christi, Texas, in connection with the liquidation of First State Bank & Trust Co., Rio Grande City, Texas.

Recommendations with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of an amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," to exempt nondeposit obligations of $100,000 or more from restrictions which apply to deposits of insured nonmember banks.

Memorandum and resolution proposing the final adoption of a new Part 346 of the Corporation's rules and regulations, to be entitled "Foreign Banks," and the amendment of Part 330 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," in order to implement the International Banking Act of 1978.

Memorandum and resolution proposing the final adoption of a new Part 348 of the Corporation's rules and regulations, to be entitled "Management Offical Interlocks," in implementation of title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 and the publication for comment of proposed amendments to the new Part 348.

Request of the Western New York Savings Bank, Buffalo, New York, for an exemption from the provisions of Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," with respect to certain mortgage-backed notes.

Reports of committees and of officers:

Minutes of the actions approved by the Committee on Liquidations, Loans, and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389–4425.

[S–1255–79 Filed 6–21–79; 2:32 pm]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m. on Monday, June 25, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550—17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Luzo Banking Company, an operating noninsured bank located at 139 Rivet Street, New Bedford, Massachusetts, for Federal deposit insurance.

Independence Bank, a proposed new bank to be located at 4401 Rockside Road, Independence, Ohio, for Federal deposit insurance.

Wilshire Bank, a proposed new bank to be located at 7901 North MacArthur Boulevard, Oklahoma City, Oklahoma, for Federal deposit insurance.

Bank of Bartlett, a proposed new bank to be located at the southwest corner of Stage Road and Darolyn Street, Bartlett, Tennessee, for Federal deposit insurance.

Lingle State Bank, a proposed new bank to be located at the intersection of Third and Main Streets, Lingle, Wyoming, for Federal deposit insurance.

Notice of acquisition of control involving The Dill State Bank, Dill City, Oklahoma.

Applications for consent to merge and establish branches:

Central Savings Bank, Baltimore, Maryland, and insured mutual savings bank, for consent to merge with Arlington Federal Savings and Loan Association, Baltimore, Maryland, upon the latter's conversion to a State charter, under the charter and title of Central Savings Bank, and for consent to establish the four offices of Arlington Federal Savings and Loan Association as branches of the resultant bank.

Peoples Westchester Savings Bank, Tarrytown, New York, an insured mutual savings bank, for consent to merge, under its charter and title, with Westchester County Savings and Loan Association, Ossining, New York, a Federally insured mutual savings and loan association, and for consent to establish the three offices of Westchester County Savings and Loan Association as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,952–L—First Augusta Bank and Trust Company Augusta, Georgia.

Case No. 43,953–L—International City Bank and Trust Company New Orleans, Louisiana.

Case No. 43,955–L—The Hamilton Bank and Trust Company Atlanta, Georgia.

Case No. 43,958–L—North Point State Bank Arlington Heights, Illinois.

Memorandum re: The Hamilton National Bank of Chattanooga Chattanooga, Tennessee.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" [5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of

the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389–4425.

[S–1256–79 Filed 6–21–79; 2:32 pm]

BILLING CODE 6714–01–M

3

June 20, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: June 27, 1979, 10 a.m.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Hearing Room A.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone, (202) 275–4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

Power Agenda—327th Meeting, June 27, 1979, Regular Meeting (10 a.m.)

CAP–1. Project No. 2674, Green Mountain Power Corp.
CAP–2. Project No. 2839, Village of Lyndonville Electric Department.
CAP–3. Project No. 2392, Georgia Pacific Corp.
CAP–4. Docket No. ER78–427, Kansas Power & Light Co.
CAP–5. Docket No. ER79–359, Electric Energy, Inc.
CAP–6. Docket No. ER79–351, Southern California Edison Co.
CAP–7. Docket Nos. ER79–356, ER79–361 and ER79–364, Southern California Edison Co.
CAP–8. Docket No. ER79–324, Public Service Co. of Indiana and Indiana & Michigan Electric Co.
CAP–9. Docket No. ES79–41, El Paso Electric Co.
CAP–10. Docket No. ES79–28, Idaho Power Co.

Miscellaneous Agenda, 327th Meeting, June 27, 1979, Regular Meeting

CAM–1. Western Massachusetts Electric Co.
CAM–2. Delmarva Power & Light Co. of Virginia.
CAM–3. Docket No. RA79–25, Melvin Klotzman and Jess Pendleton d.b.a. Victoria Equipment & Supply Co.
CAM–4. Docket No. RA79–27, Coastal States Gas Producing Co.
CAM–5. Cimarron Transmission Co.
CAM–6. Proposed Rule by DOE—Mandatory price regulations; unleaded gasoline production incentives ERA–R–79–30.

Gas Agenda, 327th Meeting, June 27, 1979, Regular Meeting

CAG–1. Docket No. RP73–64 (PGA 79–2) (DCA 79–2), Southern Natural Gas Co.
CAG–2. Docket No. RP76–148 (PGA No. 79–2), Gas Gathering Corp.
CAG–3. Docket No. RP79–74, Transcontinental Gas Pipe Line Corp.
CAG–4. Docket Nos. RP73–89 and RP77–6 (PGA No. 79–2), Sea Robin Pipeline Co.
CAG–5. Docket Nos. RP74–14 and RP74–34 (PGA No. 79–2), Mountain Fuel Resources, Inc.
CAG–6. Docket No. CI79–91, Texas Gas Exploration Corp.
CAG–7. Docket Nos. CI76–556, et al., Shell Oil Co., et al. Docket Nos. G–8812, et al., The Superior Oil Co., et al. Docket No. CI78–731, Diamond Shamrock Corp. Docket Nos. CI76–631, et al., Pogo Producing Co., et al. Docket Nos. CI72–692, et al., Pennzoil Oil & Gas, Inc. Docket No. CI78–607, Mobil Oil Corp.
CAG–8. Docket No. CP79–24, Transcontinential Gas Pipe Line Corp.
CAG–9. Docket No. CP76–60, Arkansas Louisiana Gas Co., Complainant v. McCulloch Oil Corp. of Texas, Defendant.
CAG–10. Docket No. CP78–479, Trunkline Gas Co .& Consolidated Gas Supply Corp.
CAG–11. Docket No. CP79–216, Colorado Interstate Gas Co.
CAG–12. Docket No. CP79–120, United Gas Pipe Line Co. & Columbia Gulf Transmission Co.
CAG–13. Docket No. CP78–479, Trunkline Gas Co. & Consolidated Gas Supply Corp.
CAG–14. Docket No. CP75–23, Tennessee Gas Pipeline Co., a division of Tenneco Inc.

Power Agenda, 327th Meeting, June 27, 1979, Regular Meeting

I. Licensed Project Matters

P–1. Docket No. E–6454, City of Centralia.
P–2. Docket No. E–9530, Pyramid Lake Paiute Tribe of Indians complainant, v. Sierra Pacific Power Co., respondent and Truckee-Carson Irrigation District and Washoe County Water Conservation District, additional respondents.
P–3. Project No. 77, Pacific Gas & Electric Co.
P–4. Project No. 2811, Public Utility District No. 1 of Klickitat County, Wash.
P–5. Project No. 309, Pennsylvania Electric Co.

II. Electric Rate Matters

ER–1. Docket No. ER79–338, Consumers Power Co.
ER–2. Docket No. EL79–15, Kentucky Utilities Co.
ER–3. Docket No. E–8911 and ER77–532, Gulf Power Co.

Miscellaneous Agenda, 327th Meeting, June 27, 1979, Regular Meeting

M–1. Reserved.
M–2. Reserved.
M–3. Docket No. RM79, delegation of the Commission's authority to various office directors.
M–4. Docket No. RM78–7, et al., termination of various proposed rulemaking proceedings.
M–5. Docket No. RM79, ratemaking treatment of certain research, development, and demonstration expenses.
M–6. Discussion of Price Squeeze Issue—this item will be considered on Thursday, June 28th between 1:30 and 3:30 p.m.
M–7. Docket No. RM79, notice of inquiry into the potential for interfacing curtailment policy and incremental pricing.
M–8. Docket No. RM79–21, regulations implementing the alternative fuel cost ceiling on incremental pricing under the Natural Gas Policy Act of 1978.
M–9. Docket No. RM79–45, exemption from incremental pricing for load balancing facilities which burn coal.
M–10. Docket No. RM79–46, exemption from incremental pricing for load balancing facilities which burn oil.
M–11. Docket No. RM79–47, state-wide exemptions from incremental pricing.
M–12. Docket No. RM79–34, transportation certificate for natural gas for the displacement of fuel oil
M–13(A). Notice of well category determination by Tennessee Oil and Gas Board (JD79–5805, et al.).
M–13(B). Notice of well category determination by Tennessee Oil and Gas Board (JD79–5843 thru JD79–5862).
M–13(C). Notice of well category determination by State of New Mexico Oil Conservation (JD79–4972 and JD79–4974).
M–14. Notice of well category determination by State of Montana (JD79–4818 and JD79–4821).
M–15. Docket No. RM79–19, treatment of certain production-related costs for natural gas to be sold and transported through the Alaska Natural Gas Transportation System.
M–16. Docket No. OR78–1, Trans-Alaska Pipeline System (formerly I&S Docket No. 9164).
M–17. Docket Nos. GP79–19 and CP79–21, Montana Dakota Utilities Co.

Gas Agenda, 327th Meeting, June 27, 1979, Regular Meeting

Pipeline Rate Matters

RP–1. Docket No. RP79–72, Southern Natural Gas Co.
RP–2. Docket No. RP79–71, Natural Gas Pipeline Co. of America.
RP–3. Docket No. RP79–73, Consolidated Gas Supply Corp.
RP–4. Docket No. RP73–114 (PGA 79–2), RP74–24 (DCA 79–2), RP74–73 (R & D 79–2) and RP79–52, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
RP–5. Docket No. RP72–133 (PGA 79–2), United Gas Pipe Line Co.
RP–6. Docket No. RP77–116, Carnegie Natural Gas Co.
RP–7. Docket No. RP75–105, Columbia Gulf Transmission Co. Docket No. RP75–106 (Consolidated Taxes), Columbia Gas Transmission Corp.
RP–8. Docket No. RP72–142, RP76–135 (PGA 78–4) (AP 78–1), Cities Service Gas Co.

I. Producer Certificate Matters

Reserved.

II. Pipeline Certificate Matters

CP–1. Docket No. CP78–116, El Paso Natural Gas Co. Docket No. CP78–130, Northwest Pipeline Co.
CP–2. Docket No. CP78–186, Natural Gas Pipe Line Co. of America and Southwestern Gas Pipe Line Inc.
CP–3. Docket No. CP76–363, Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp.
CP–4. Docket No. CP78–391, et al., Great Plains Gasification Associates.
CP–5. Docket No. CP76–500, CP74–289, et al., CP77–289, CP77–512, El Paso Natural Gas Co.
CP–6. Docket No. CP77–457, Northwest Pipeline Corp.
CP–7. Docket No. TC79–128, Natural Gas Pipeline Co. of America.

Kenneth F. Plumb,

Secretary.

[S–1252–79 6–21–79; 2:09 pm]

BILLING CODE 6450–01–M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 119, Page 35356, June 19, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 21, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202–377–6677).

CHANGES IN THE MEETING:

THE FOLLOWING ITEMS HAVE BEEN ADDED TO THE OPEN MEETING:

Application for Permission to convert to a Federally Chartered Stock Assn. Bayamon Federal Savings and Loan Association, Bayamon, Puerto Rico

Application for Permission to Convert to a Federal Stock Assn—First Federal Savings and Loan Association of Roanoke, Roanoke, Virginia

Application for Permission to Convert to a State Chartered Stock Assn—Beverly Hills Federal Savings and Loan Association, Beverly Hills, California

Application for Permission to Convert to a State Chartered Stock Assn—Land of Lincoln Savings and Loan Association, Berwyn, Illinois

Consideration of Proposed Policy for Coordination of Resources to Implement CRA

Consideration of Bank Board Resolution Regarding Executive Order 12044

Designation of Supervisory Agent—Federal Home Loan Bank of Atlanta

Consideration of Automation of Consumer Complaint System

Application for Two Branch Offices—First Federal Savings and Loan Association of Toledo, Toledo, Ohio

No. 249, June 20, 1979.

[S–1251–79 Filed 6–21–79; 11:00 am]

BILLING CODE 6720–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

June 21, 1979.

TIME AND DATE: 10 a.m., June 26, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following agenda item:

1. Joseph Christian v. South Hopkins Coal Company, Inc., BARB 77–184 (motion for stay pending appeal)

It was determined by unanimous vote of all Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1257–79 Filed 6–21–79; 3:16 pm]

BILLING CODE 6820–12–M

6

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 9:00 a.m.—5:00 p.m. (Thursday); 9:00 a.m.—5:00 p.m. (Friday); 9:00 a.m.—12:30 p.m. (Saturday).

DATE: July 26, 27, and 28, 1979.

PLACE: St. Croix by the Sea, St. Croix, Virgin Islands.

STATUS: Open.

MATTERS TO BE DISCUSSED:(1) Review of NCLIS Goals and activities in relation to Congressional intent and the Commission's statute; and (2) Determination of priorities and activities for fiscal year 1980 and fiscal year 1981 budgets.

CONTACT PERSON FOR MORE INFORMATION: Alphonse F. Trezza, Executive Director, (202) 653–6252.

Alphonse F. Trezza,

Executive Director.

June 18, 1979.

[S–1253–79 Filed 6–21–79; 2:09 pm]

BILLING CODE 7527–01–M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: June 18, 20, 21 and 22, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open and Closed (Changes).

MATTERS TO BE CONSIDERED:

Monday, June 18, 3 p.m.

Briefing on American Atomics Plant (Approximately 1 hour—Public meeing).

Wednesday, June 20, 9:30 a.m.

Discussion of Task Force on NRC Safeguards Policy & Safeguards Upgrade Rule is Postponed.

Wednesday, June 20, 1:30 p.m.

The Discussion of Commission Response to Emergency Requirements is Delayed to 2 p.m.

Thursday, June 21, 11:30 a.m.

Briefing on Feedwater Nozzle Cracks (Approximately ½ hour—Public meeting—additional item).

Thursday, June 21, 1:30 p.m.

Affirmation Session (Approximately 10 minutes—Public meeting).

Friday, June 22, 9:0 a.m.

Discussion of Personnel Matter (Approximately 1½ hours—Closed-Ex–6—Continuation).

ADDITIONAL INFORMATION: The Commission voted 3–0 (Chairman Hendrie and Commissioner Ahearne not present) on June 18, that pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, Commission business, required that Monday's briefing be held on less than one week's notice to the public. Prompt discussion was required for this matter of importance.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed, Office of the Secretary, (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

June 20, 1979.

[S–1254—79 Filed 6–21–79; 2:09 pm]

BILLING CODE 7590–01–M

federal register

Monday
June 25, 1979

Part II

Department of the Interior

Fish and Wildlife Service

Final Endangered Status for 25 Foreign Species of Mammals and Birds

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Final Endangered Status for 25 Foreign Species of Mammals and Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that 24 foreign mammals and one foreign bird are endangered species. Data which form the basis for the listing of the mammals were obtained from the International Union for the Conservation of Nature and Natural Resources Red Data Book (1972 edition), and from Miss Jane Thornback, of the Fauna Preservation Society, who is reviewing the Red Data Book for a new edition. The listing of the bird is based upon data provided by Holly A. J. Nichols an authority on West Indian parrots, and Warren King, of the International Council for Bird Preservation. This rule will provide protection needed for the conservation of these species.

DATES: This rule will become effective on July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (343–4646).

SUPPLEMENTARY INFORMATION:

Background

This rule determines 24 foreign species of mammals and one foreign bird to be endangered pursuant to the Endangered Species Act of 1973, as amended. The mammal species have all been classified as endangered in the 1972 edition of the IUCN's Red Data Book, and are currently recognized as endangered by Miss Jane Thornback who is revising that book for a new edition. Holly A. J. Nichols, a noted authority on West Indian parrots, and Warren King of the International Council for Bird Preservation, have provided the data on the bird, the red-necked Amazon parrot. The species, their general former distribution, and the threats they face are the following:

1. Ryukyu rabbit, *Pentalags furnesi;* (Ryukyu islands of Amami Oshima and Toku-no-Shima). The species has a very restricted range and limited habitat. It is endangered from loss of habitat and predation by feral dogs. In 1964, the population estimate was between 500 and 900 individuals; no later population estimates are available.

2. Simien fox, *Simia simensis.* (Ethiopia). Less than 50 individuals survive. Two races are recognized. The northern race is close to extinction; the other race which forms the main population is in the Simien Mountains where there are about 350 to 475 foxes in the Bale Mountains section. The species is endangered from habitat loss due to human use, and shooting because of an unjustified reputation as a sheep killer.

3. Malabar large spotted civet, *Viverra megaspila civettina.* (South India). There have been no recent sightings of this animal and there is a possibility that it is already extinct. Reasons for its decline include persecution by man and loss of habitat to agriculture. An ecological survey is urgently needed to determine if the civet still survives.

4. Iriomote cat, *Mayailurus* iriomotes. (Iriomote Islands). It is estimated by the Cat Specialist Group of the IUCN, that no more than 300 to 400 of these cats survive. It is endangered due to excessive cultivation of the land which has destroyed much of its habitat and because it is often caught in traps set for pigs.

5. Fea's muntjac, *Muntiacus feae.* (Southern Burma and northern Thailand). This species has a restricted range and is vulnerable to hunting pressure. This pressure is undoubtedly increasing; there are armed insurgents living off the land within the range of this muntjac in Burma. In both Thailand and Burma its meat is relished and is often sold in local markets.

6. Formosan sika, *Cervus nippon taiouanus.* (Mountains of southern Taiwan). The principal cause of decline of this species was uncontrolled hunting for their meat. Sika deer trapped in the wild were, until recently, received by the animal traders in Taitung; they were sent alive to restaurants in Koohiung or Taipei. In 1967, it was estimated that only 300 of the animals survived in the wild; in 1973, the Taiwan government declared this sika to be extinct. A captive herd of 100 to 200 sikas are maintained on Lu-tao (Green Island) where they are farmed for food. Considerable numbers are still found in North American zoos.

7. Ryukyu sika, *Cervus nippon keramae.* (Ryukyu Islands). This deer was known to have occurred on numerous Kerama islands within the memory of living inhabitants. It has been extirpated now on all but the islet of Yakabijima and possibly on Keruma, Koba and Aka islands. Hunting has been the principal cause of decline. Yababi island is 1.1 km^2 in area and is 217m above sea level. Forage grasses are poor and widespread deer mortalities occur during years of drought. The deer population on Yakabi was estimated to number only 30 animals in 1964; in 1955 it numbered 160 animals.

8. North China sika, *Cervus nippon mandarinus.* (Shansi and doubtfully Chihli Provinces of the Peoples Republic of China). This deer's range and populations have declined drastically as a result of uncontrolled hunting and destruction of habitat for agricultural use. It is raised for food on a few farms north of Peking, but its future survival as a wild species may be in doubt.

9. Shansi sika, *Cervus nippon grassianus.* (West Shansi Province, Peoples Republic of China). This sika formerly range throughout the mountainous areas of West Shansi; by 1935, it was restricted to a few isolated districts west of Fen Ho. Its present status and distribution are not known, but it may still occur in the wilder mountainous areas of Shansi. Like other sika, it has been overhunted for its antlers, which are believed to have medicinal properties; exceptionally high prices are paid for the antlers velvet. Habitat loss to agriculture has also played a part in its decline.

10. South China sika, *Cervus nippon kopschi.* Yangtze Valley, Peoples Republic of China). This species' former range was more or less continuous from the Yangtze River Basin eastward to the Coast and southward as far as the north of Kangtung Province. By the 1930's, its range had contracted to a restricted area in the mountains of southern Anhui and closely adjacent northwestern Chekang and southeastern Kiangsi. At present, a few may survive in the Yangtze Valley. This deer has been decimated primarily as a result of killing for its antlers for which extremely high prices are paid. In addition to being hunted with rifles, the deer are killed with set-guns, snares and pit falls, so that all ages and sexes of animals are taken.

11. Corsican red deer, *Cervus elaphus corsicanus.* (Corsica and Sardinia). The Corsican red deer is possibly already extinct in Corsica and currently is confined to two or three localities on the southern Sardinian coast. The numbers in Sardinia are in the low hundreds. Deer populations on both islands were reduced by uncontrolled hunting which reached a peak during World War II. Poaching still takes a small toll in Sardinia and deer are occasionally killed in local boar hunts.

3-A25060 0057(03)(22-JUN-79-13:21:56)

12. Barbary deer, *Cervus elaphus barbarus.* (Tunisia, Algeria, Morocco). This deer is now confined to a small region of cork-oak and pine forest on the Algerian/unisian border. The total population is about 400 animals. There has been, and continues to be, poaching of this species, and loss of great amounts of habitat has contributed to its decline.

13. Yarkand deer, *Cervus elaphus yarkandensis.* (Chinese Turkestan). The Yarkand deer formerly inhabited eastern Turkestan along the lower courses of the Kashgar, Yarkand and Khotan Rivers, and on the main Tarim River. Its range and numbers have been greatly reduced, almost to the point of extinction. It may still survive, however in the Tarim Basin in Chinese Turkestan. This subspecies has been overhunted for generations. As long ago as 1927, it was recognized that it was being overhunted and was approaching extinction. Habitat loss has also been a major factor in its decline.

14. Bactrian deer, *Cervus elaphus bactrianus.* (Southern U.S.S.R. and northern Afghanistan). In the 19th century, the subspecies was widespread in the *tugai* forests of the Amu Darya and Syr Darya river basins. In northern Afghanistan, its range extended south as far as the river Kokcha. At present this deer is confined to remnant groups along the middle course of the Amu Darya, the upper Amu Darya and the Pyandzh in the U.S.S.R.; in the Hazrat-i-Bostan/ Darquad area, and north of the Imam Sahib and west of Kirof Abad in Afghanistan. The total population of this deer is about 500 animals, and populations are still declining because of habitat disruption. A major factor in the decline has also been poaching for meat, particularly in the U.S.S.R.

15. Western giant eland, *Taurotragus derbianus derbianus.* (Senegal to the Ivory Coast). This species is now almost entirely restricted to Senegal. It is doubtful if any survive in the Ivory Coast, Gambia, or Portuguese Guinea. In Mali, they are hunted and are becoming increasingly rare in Senegal, there are 100 western giant eland in Niololokoba National Park; about 50 in the Faleme River area; and about 30 in Haute-Casamanu. Only in Niokolokoba National Park is this subspecies relatively Secure. Poaching has been the principal agent in the decline, and loss of habitat is preventing recovery.

16. Jentink's duiker, *Cephalopus jentinki.* (Sierra Leone, Liberia and the Ivory Coast). This species is now known to occur only in one part of the Tchien District of Liberia and possibly in the Ivory Coast. The total population is unlikely to exceed a few hundred individuals. It is threatened with extinction from excessive subsistence hunting and habitat disruption.

17. Tora hartebeest, *Alcelaphus buselaphus tora.* (Ethiopia, Sudan, southern Egypt). The subspecies still occupies much of its former range but has been greatly depleted numerically be excessive subsistence hunting and habitat degradation. In addition, rinderpest epidemics dealt it a serious blow in the 1890's, from which it never fully recovered. It was estimated that there were between 200 and 300 in the Sudan in 1965.

18. Swayne's hartebeest, *Alcelaphus buselaphus swaynei.* (Somalia, Ethiopia). Formerly occupied an extensive range in Somalia and Ethiopia. Now believed extinct in Somalia, and restricted to four disjunct areas in Ethiopia. In 1973, fewer than 700 animals were estimated to survive, principally in the Shashamanne area, 270 km. south of Addis Ababa. Threats to this subspecies are excessive subsistence hunting and habitat disruption. Although it is now totally protected by law, poaching is still common in Ethiopia.

19. Zanzibar suni, *Nesotragus moschatus moschatus.* (Zanzibar and neighboring islets). This subspecies was common on Zanzibar in the 19th century. Although now nearly extinct, a young animal taken in 1972 is indication that the species probably still survives. The decline was brought about by excessive subsistence hunting and habitat destruction.

20. Sand gazelle, *Gazella subgutturosa marica.* (Jordan and Arabian Peninsula). This gazelle was formerly found in the eastern deserts of Jordan and extending downward through the entire Arabian Peninsula. It is common now only in the sand deserts along the southern and eastern fringes of Rub-al-khali. It is endangered because of hunting from motor vehicles which has resulted in greatly reducing or exterminating the animal over much of its range as a result of overgrazing that has degraded its habitat.

21. Saudi Arabian gazelle, *Gazella dorcas saudiya.* (Israel, Iraq, Jordan, Syria, Saudi Arabia, Kuwait). The population of this gazelle has been greatly depleted by mechanized hunting from motor vehicles. Israel estimated the population to be 500 animals in 1964.

22. Pelzeln's gazelle, *Gazella dorcas pelzelni.* (Somalia). The present range of this subspecies extends only along a small coastal tract in the neighborhood of Basaso in Somalia. The most serious decline in the species occurred in about 1900 due to uncontrolled hunting. Since then, deterioration of habitat has progressed rapidly largely due to overgrazing.

23. Arabian gazelle, *Gazella gazella arabica.* (Arabian Penisula including Israel). This species formerly occurred widely in the Arabian Penisula, but its range has now been greatly reduced. The primary threats to its survival are habitat destruction from overgrazing, and widespread hunting, including hunting from motorized vehicles.

24. Arabian tahr. *Hemitragus jayakari.* (Oman). This tahr formerly ranged throughout the hilly and mountainous sections of Oman at the south-eastern end of the Arabian Peninsula. Habitat is now limited to Jabal Hafit and Jalan Shar Keeyah Mountains. The species occupies only the rocky summits of steep tree-covered mountains. Threats to its survival include excessive hunting pressure, and its limited, vulnerable habitat.

25. Red-necked Amazon parrot. *Amazona arausiaca.* (Dominica). This species formerly ranged widely over Dominica and the population numbered in the thousands. Fifty years ago, the red-necked Amazon parrot inhabited virtually all the lower elevations. Observers in the 1930's reported seeing "clouds" of these parrots in some areas. By 1977, the red-necked Amazon parrot was reduced to only about 350 birds in scattered localities on the island. This great reduction has occurred because of excessive hunting of the species for food and pets and it has been shot because it feeds on fruits and nuts used by the islanders.

Summary of Comments

When the proposal to list these 25 species was published in the Federal Register, all of the countries in which they are resident were contacted and invited to submit data and comments. In addition, appropriate U.S. Federal agencies and private organizations were contacted and informed of the proposal. In response, nine comments were received. Of the countries contacted, only Italy, Jordan, Sierra Leone and Tanzania replied. Italy reported the Corsican red deer (*Cervus elephas corsicanus*) is resident in that country and is endangered.

Jordan felt that in the case of the gazelles (*Gazella gazella, G. dorcas* and *G. subguttarosa*), the entire species, rather than individual subspecies, should be listed since the whole species is Threatened with extinction (endangered) and not just the proposed subspecies. Jordan also recommended that if the entire species, rather than

individual subspecies, were listed common names should reflect the usage by Harrison (The Mammals of Arabia, Vol. II, 1968) rather than the subspecies common names used in the proposal. We agree that probably all three subspecies recommended by Jordan are endangered. However, data available to us pertain only to the proposed subspecies and not to the species as a whole. Therefore, under the Endangered Species Act, only the subspecies which we proposed can be listed. Given this situation the common names used in the proposal, which are those used for the pertinent subspecies by the I.U.C.N. in the "Red Data Book", are maintained in the final rulemaking. Sierra Leone informed us that the western giant eland (*Taurotragus derbianus*) found in the region of the Lema Mountains and is regarded as rare; Jentink's diuker (*Cephalophus jentinki*) is found in both the Eastern Province and Western Area. Sierra Leone considers both species to be endangered.

Tanzania reported that the Zanzibar suni (*Nesotragus moschatus moschatus*) is distributed in the forest and dense bush country typical of the east coast of Zanzibar. It is also present on some of the small islands in Zanzibar harbor. Due to constant trapping and hunting pressure, the animal is nearing extinction.

Additional comments on the proposal were received from: the New York Zoological Society; Gladys Porter Zoo; Riverbanks Zoological Park, Elsa Wild Animal Appeal, and the I.U.C.N. All of these essentially supported the proposal, but the Gladys Porter Zoo felt that, in the case of Jentink's diuker (*Cepahlophus jentinki*), listing was a futile gesture in an effort to save the species.

Effect of Rulemaking

This rule will prohibit the importation of any of the above species (or parts or products thereof) except under permit for scientific purposes or to enhance the survival or propagation of these species. Interstate shipment of these species in the course of a commercial activity will likewise be regulated.

This rule also will make it obligatory that U.S. Federal agencies do not fund, authorize or carry out any action or activities which might jeopardize the continued existence of these species. These agencies must utilize their authorities to promote the conservation of all listed endangered species.

Finally, the United States will encourage the countries in which these species are resident to provide for their conservation, and may enter into bilateral or multilateral agreements with these countries to provide for such conservation. In addition, the Department of the Interior may assign or otherwise make available any of its officiers or employees for the purpose of cooperating with the countries in which these species are resident in developing personnel resources and programs to promote their conservation. The United States may also use foreign currencies accruing to it under the Agricultural Trade Development and Assistance Act of 1954, or any other law, to provide to these countries (with their consent) assistance in the development of management programs which are necessary for the conservation of these species.

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 specify that the following be added at the end of subsection 4(a)(1) of the Endangered Species Act of 1973:

> At the time any such regulation (any proposal to determine a species to be an endangered or threatened species) is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Since the species under consideration in this rulemaking are foreign species, this amendment does not apply.

The Endangered Species Act Amendments of 1978 further state the following:

> (B) In the case of any regulation proposed by the Secretry to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—
>
> (i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation
>
> (I) in the **Federal Register**, and
>
> (II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat;
>
> (ii) shall offer for publication in appropriate scientific journals the substance of the **Federal Register** notice referred to incluse (i)(I);
>
> (iii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and
>
> (iv) shall—
>
> (I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefore is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and
>
> (II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

In the case of the species herein considered, section 4(B)(i)(I) above has been complied with. Since these species are foreign and no critical habitat has been proposed for them, none of the other amended subsections of this Section are applicable. Therefore, the proposal as published on December 27, 1977, does not need to be supplemented to comply with the Endangered Species Act Amendments of 1978. Accordingly, the Service is proceeding at this time with a final rule to determine these species as endangered pursuant to the Endangered Species Act of 1973.

Regulations Promulgation

Accordingly, Part 17, Subpart B, Chapter I of title 50 of the U.S. Code of Federal Regulations is amended as follows:

§ 17.11 [Amended]

In § 17.11, add the following species to the list in alphabetical order.

Species		Range			Status	When Listed	Special Rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Cat, Iriomote	*Mayailurus iriomotensis*	N/A	Iriomote Island, Ryukyu Islands	Entire	E		N/A
Civet, Malabar large spotted	*Viverra megaspila civettina*	N/A	India	Entire	E		N/A
Deer, Bactrian	*Cervus elaphus bactrianus*	N/A	USSR, Afghanistan	Entire	E		N/A
Deer, Barbary	*Cervus elaphus barbarus*	N/A	Tunisia, Algeria, Morocco	Entire	E		N/A
Deer, Corscan red	*Cervus elaphus corsicanus*	N/A	Corsica, Sardinia	Entire	E		N/A
Deer, Yarkand	*Cervus elaphus yarkandensis*	N/A	Chinese Turkestan	Entire	E		N/A

Species		Range			Status	When Listed	Special Rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Duiker, Jentinks	*Cephalophus jentinki*	N/A	Liberia, Sierra Leone, Ivory Coast.	Entire	E		N/A
Eland, western	*Taurotragus derbianus derbianus*	N/A	Senegal to Ivory Coast	Entire	E		N/A
Fox, Simian	*Simia simensis*	N/A	Ethiopia	Entire	E		N/A
Gazelle Arabian	*Gazella gazella arabica*	N/A	Arabian Peninsula including Israel.	Entire	E		N/A
Gazelle, Petzeln's	*Gazella dorcas petzelni*	N/A	Somalia	Entire	E		N/A
Gazelle, sand	*Gazella subgutturosa marica*	N/A	Arabian Peninsula, Jordan	Entire	E		N/A
Gazelle, Saudi	*Gazella dorcas saudiya*	N/A	Israel, Iraq, Jordan, Syria, Saudi Arabia, Kuwait.	Entire	E		N/A
Hartebeest, Swayne's	*Alcelaphus buselaphus swaynei*	N/A	Somalia, Ethiopia	Entire	E		N/A
Hartebeest, Tora	*Alcelaphus buselaphus tora*	N/A	Ethiopia, Sudan, Egypt	Entire	E		N/A
Muntjac, Fea's	*Muntiacus feae*	N/A	Burma, Thailand	Entire	E		N/A
Rabbit, Ryukyu	*Pentalagus furnesi*	N/A	Ryukyu Islands	Entire	E		N/A
Sika, Formosan	*Cervus nippon taiouanus*	N/A	Taiwan	Entire	E		N/A
Sika, North China	*Cervus nippon mandarinus*	N/A	Shansi, China	Entire	E		N/A
Sika, Ryukyu	*Cervus nippon keramae*	N/A	Ryukyu Islands	Entire	E		N/A
Sika, Shansi	*Cervus nippon grassianus*	N/A	Shansi, China	Entire	E		N/A
Sika, South China	*Cervus nippon kopschi*	N/A	Yangtze Valley, China	Entire	E		N/A
Suni, Zanzibar	*Nesotragus moschatus moschatus*	N/A	Zanzibar Island, Tanzania		E		N/A
Tahr, Arabian	*Hemitragus jayakari*	N/A	Oman	Entire	E		N/A
Parrot, rednecked Amazon	*Amazona aurasiaca*	N/A	Dominica	Entire	E		N/A

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the 25 species under consideration. The assessment is the basis for a decision that issuance of these regulations is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

The author of this rulemaking is John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone: (703) 235–1975.

Dated: June 15, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79–19576 Filed 6–22–79; 8:45 am]

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federal register

Monday
June 25, 1979

Part III

Department of the Interior

Fish and Wildlife Service

Reclassification of the American Alligator in Nine Parishes in Louisiana

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Reclassification of the American Alligator in Nine Parishes in Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The legal status of the American alligator, *Alligator mississippiensis*, in nine parishes of southern Louisiana is hereby changed from their present Threatened status to Threatened under the Similarity of Appearance clause of the Endangered Species Act of 1973. This change is being made because in recent years the alligator has increased its numbers significantly in the nine parishes. These nine parishes are located primarily within the coastal zone of Louisiana and include the following: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. As such, the special rules which presently apply to alligators in Cameron, Calcasieu and Vermilion parishes in southwestern Louisiana would apply to these parishes as well.

DATES: This rule becomes effective on July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John Spinks, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION; BACKGROUND: On July 30, 1976, Governor Edwin Edwards of Louisiana petitioned the Fish and Wildlife Service to delist the American alligator in all southern parishes in Louisiana. On February 7, 1977, Curtis Bohlen, then Acting Assistant Secretary of the Department of the Interior, advised the State that supporting data were required before the Service could act on the State's petition. Accordingly, the State supplied supporting documentation on April 12, 1977, December 7, 1977 and June 14, 1978 which they believed supported the reclassification as requested.

After an extensive review of the data supplied by the state, the Service decided to propose nine parishes (Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, St. Tammany) under the Threatened (Similarity of Appearance) clause of the Act because of the improved biological status of the species within the areas. At the same time, the Service published a notice of review on the status of the alligator in all other parishes within Louisiana. The Service also proposed to amend the special rules which apply to American alligators.

The details of these proposals may be obtained by consulting the **Federal Register** of October 2, 1978 (43 FR 45512–45517) or the *Endangered Species Technical Bulletin* of November, 1978. A list of the supporting data supplied by Louisiana in conjunction with their petition was included in the October 2 **Federal Register.**

In accordance with the Endangered Species Act Amendments of 1978, the Service held public hearings on this proposal on May 25, 1979 at Morgan City, Louisiana, and May 29, 1979 at Tallahassee, Florida. In order to accommodate these hearings, the comment period on the proposal was reopened between May 10 and June 5, 1979. (See the **Federal Register** of May 9, 1979 (44 FR 27190) for details concerning these hearings and the reopened comment period).

At present, the Service has designated three different groups or populations of the American alligator, and has classified these groups as Endangered, Threatened, or Threatened (Similarity of Appearance) depending on the locality involved. The alligator is classified in Louisiana under the Act as Threatened (Similarity of Appearance) in Cameron, Calcasieu, and Vermilion parishes, Threatened in other coastal parishes, and Endangered in inland parishes.

Summary of Comments

In the October 2, 1978 **Federal Register** proposal (43 FR 45513–45517) and the accompanying September 29, 1978 Press Release, the general public, State, Federal, and other interested parties were asked to submit comments of a biological nature on the proposal. In addition the Service requested comments during the reopened public comment period (May 10–June 5, 1979) and these have also been considered in the Service's decision.

A total of 23 comments were received; of these 8 represented private individuals. The following states and organizations submitted comments: Louisiana (Gov. Edwin Edwards), Florida Game and Fresh Water Fish Commission (Robert Brantly), Environmental Defense Fund (Michael Bean), Defenders of Wildlife (Toby Cooper), Fund for Animals (Lewis Regenstein), Southwest Florida Regional Alligator Association (George R. Campbell), Fouke Company (George G. Heinz), Columbia Impex Corporation (Armand S. Bennett), Ascantia, Inc. (Michael H. Ellis), Little Pecan Wildlife Management Area (Robert A. Koll), National Wildlife Federation (Thomas L. Kimball), J. M. Burguieres Co. Ltd. Resolutions concerning the proposal, or dealing with alligators in other Louisiana parishes, were received from: Policy Jury of the Parish of St. Mary, Policy Jury of Jefferson Davis Parish.

Of those that commented, 10 were in favor of reclassification in all or a part of the proposed area, 1 was opposed, and 6 did not comment on the reclassification. None of the above offered new significant biological information pertaining to the Threatened (Similarity of Appearance) status in the nine parish area.

The policy jury of Jefferson Davis parish recommended changing the status of the alligator in that parish but offered no supporting data. Ascantia, Inc. also recommended changing the status in Livingston, Ascension, St. James and St. John the Baptist parishes although, again, no supporting data were supplied. Little Pecan Wildlife Management Area, while supporting the reclassification in the nine parishes, reviewed the alligator's status in Cameron parish and suggested that . . . "Plans should be made to restore management authority to the state as in the past . . ." However, this is already the case in Cameron parish since alligators are classified as Threatened (Similarity of Appearance) in this area and have been since 1975.

The Southwest Florida Regional Alligator Association (SFRAA) strongly opposed the reclassification believing that a change in status would undermine past conservation attempts for the species. Mr. Campbell doubted that alligators have recovered as much as is claimed stating that alligators are often more visible because of habitat destruction and human encroachment.

Defenders of Wildlife and the Fund for Animals submitted joint comments on the reclassification and opposed such reclassification on the grounds of inadequate enforcability and the potential harm which could be sustained by endangered crocodilians throughout the world should alligator hides enter the commercial market. No statements were made on the biological status of the alligator in the nine parish area.

Governor Edwin Edwards while strongly supporting the reclassification in the nine parishes as proposed, requested that the Service reconsider its position on the other parishes requested for delisting. In addition, he provided a recent manuscript by Larry McNease and Ted Joanen entitled "Distribution and relative abundance of the alligator in Louisiana coastal marshes" which provided additional information on

Louisiana coastal marsh alligators. Gov. Edwards reviewed the need to maintain good relations with landowners in alligator management and the value to the economy of southern Louisiana.

At Morgan City, Louisiana, approximately 200 persons attended the public hearings on the proposal and 19 people made statements. In addition, a number of written comments and resolutions were presented for inclusion to the minutes of the public hearings. The following institutions and governmental representatives made statements: Mr. Richard Yancey (Assistant Secretary, Louisiana Department of Wildlife and Fisheries), State Senator Jesse Knowles, Doyle Berry (Chairman, Louisiana Wildlife and Fisheries Commission), Don Willie (Vice Chairman, Louisiana Wildlife and Fisheries Commission), St. Mary's Parish Policy Jury, Terrebonne Parish Policy Jury, Tangipahoa Parish Policy Jury, Livingston Parish Policy Jury, Williams Inc., Continental Land and Fur Co., Ascantia Corp., Tenneco LaTerre, Allen Parish Policy Jury, St. Landry Parish Policy Jury, Vermilion Corp., St. John the Baptist Parish Policy Jury, Louisiana Land and Exploration Corp. All those who spoke were in favor of the reclassification and many persons recommended reclassification in additional parishes. No new substantial biological data were supplied.

At Tallahassee, Florida, 15 persons attended the public hearings and four made statements: Alan Egbert and Tommy Hines (Florida Game and Fresh Water Fish Commission), J. Don Ashley (Southeastern Alligator Association), Mr. Charles Lee (Florida Audubon Society). No opposition was made to the reclassification and several persons spoke in favor of it although they thought additional areas should have been included. No new biological data were added.

Conclusion

The Service has reviewed all available data and the Director has determined that because of large population sizes and increasing numbers, the American alligator is no longer likely to become endangered in the foreseeable future so as to be threatened in the following parishes in southern Louisiana: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. The Service believes that the alligator can be managed within these areas and that no harm will be done to the species by controlled harvest. However, because of similarity of appearance, it is still necessary to impose some restrictions on commercial activities involving specimens taken in these nine parishes to insure the conservation of other alligator populations that are threatened or endangered. Therefore, the Service will consider the alligator as threatened (similarity of appearance) in these nine parishes.

The Service will continue to review the status of the American alligator throughout the State of Louisiana. However, although the State of Louisiana recommended that alligators in additional parishes be reclassified, the biological evidence does not support such an action. Those parishes recommended for a change in status have significant amounts of available alligator habitat and have populations which have increased substantially as a result of strict protective measures. The other parishes either do not have much available habitat or have populations which have remained stationary in numbers or have experienced only slight increases. Should alligator numbers increase to the point that they become a serious nuisance or exceed the carrying capacity of their habitat, appropriate measures, including reclassification, can be implemented at that time. Until that has been demonstrated, a reclassification in these areas is not in the best interests of the species.

In the October 2, 1978 proposal on the alligator, there were a series of changes proposed in the special rules concerning this species. Comments received are still being carefully reviewed by our Division of Law Enforcement and Wildlife Permit Office and a final decision has not yet been reached. However, the Service has decided to proceed with the reclassification now in order to allow the State time to prepare for the 1979 harvest. Until such time as new special rules are adopted, the special rules which apply to American alligators contained in Section 17.42(a) will apply to these nine parishes which are the subject of this rulemaking. These special rules are currently in effect in Cameron, Calcasieu and Vermilion parishes in Louisiana where the alligator populations are listed as Threatened (Similarity of Appearance).

Effect of the Rulemaking

The effect of this final rulemaking is to make those special rules which apply to American alligators contained in 50 CFR 17.42(a) applicable to the nine additional parishes in Louisiana which are the subject of this rulemaking (Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, St. Bernard, Jefferson, Plaquemines, and St. Tammany). These rules would allow a controlled harvest of alligators within these parishes in accordance with state laws. Details of these special rules are contained in 50 CFR 17.42(a) and may be obtained from: Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (202/343-9242).

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 specify that the following be added at the end of subsection 4(a)(1) of the Endangered Species Act of 1978:

> At the time any such regulation (any proposal to determine a species to be an Endangered or Threatened species) is proposed, The Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Since this rulemaking involves only a downward reclassification of status, this amendment does not apply.

The Endangered Species Act Amendments of 1978 further state the following:

> (B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—
>
> (i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation:
>
> (I) in the **Federal Register**, and
>
> (II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat;
>
> (ii) shall offer for publication in appropriate scientific journals the substance of the **Federal Register** notice referred to in clause (i)(I);
>
> (iii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and
>
> (iv) shall—
>
> (I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefore is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and
>
> (II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in

each State, and, if requested, hold a public hearing in each such State.

In the case of the American alligator reclassification herein considered, Section 4(B)(i)(I) above has been complied with (see the **Federal Register** of October 2, 1978; 43 FR 45512–45517). In addition, the following scientific journals were notified of the proposal and offered a copy of the **Federal Register** document for either publication or distribution to scientists: Copeia, Herpetologica, Herpetological Review, and the Journal of Herpetology.

Public hearings were held in areas affected by the proposal (Morgan City, LA.; Tallahassee, FL.) in order to allow the public to comment. Therefore, the proposal as published on October 2, 1978, does not need to be supplemented to comply with the Endangered Species Act Amendments of 1978. Accordingly, the Service is proceeding at this time with a final rulemaking to reclassify this species pursuant to the Endangered Species Act of 1973.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (703–235–1975).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

1. Amend § 17.11(i) by changing the status of the American alligator in Louisiana under "REPTILES" on the list of animals to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion threatened			
Alligator, American	*Alligator mississippiensis*	Wherever found in the wild, except in those areas where it is listed as Threatened, as set forth below.	Southeastern United States.	Entire	E	11	N/A
Alligator, American	*Alligator mississippiensis*	In the wild in FL and in certain areas of GA, LA (except in Cameron, Vermillion, and Calcasieu Parishes), SC and TX, as set forth in Sec. 17.42(a)(2)(iv).	U.S. FL and certain areas of GA, LA (except in Cameron, Vermillion and Calcasieu Parishes), SC and TX.	Entire	T	20	17.42(a)
Alligator, American	*Alligator mississippiensis*	In the wild in Cameron, Vermillion, and Calcasieu Parishes in LA.	U.S. (Cameron, Vermillion, and Calcasieu Parishes in LA.	N/A	T(S/A)	11	17.42(a)
Alligator, American	*Alligator mississippiensis*	In Captivity wherever found	Worldwide	N/A	T(S/A)	11	N/A

* * *

The Department has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: June 15, 1979.

Robert S. Cook,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-19577 Filed 6-22-79; 8:45 am]

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federal register

Monday
June 25, 1979

Part IV

Department of Health, Education, and Welfare

Office of Education

Gifted and Talented Children's Education Program

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 160b and 195]

Gifted and Talented Children's Education Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commissioner of Education proposes regulations governing Federal financial assistance under the Gifted and Talented Children's Education Act of 1978. The need for these regulations results from:

(a) The Education Amendments of 1978;

(b) A need to rewrite the existing regulations in clear and simple English; and

(c) A need to improve the administration of the program.

DATES: All comments on these proposed regulations must be received on or before August 24, 1979. Written comments are preferred. Public meetings will be held in each of the ten regional office cities on August 1, 1979. The time for these meetings is: 9:00 a.m.–12:00 noon; 1:00 p.m.–5:00 p.m.; 7:00 p.m.–9:00 p.m.

ADDRESSES: Submit comments to Dr. Dorothy Sisk, Office of Gifted and Talented, U.S. Office of Education, 400 Maryland Avenue, SW. (Room 3835, Donohoe Bldg.), Washington, D.C. 20202.

The locations of the public meetings are:

Region I—Boston; Boston School Dept., Administration Building, Boston Committee Hearing Rm., 26 Court St., Boston Mass.
Region II—New York; Hearing Room E, Room 2222, 26 Federal Plaza, New York, N.Y.
Region III—Philadelphia; University City Holiday Inn, 36th and Chestnut St., Philadelphia, Pa.
Region IV—Atlanta; Regional Office Building, 101 Mariette Towers Bldg., Suite 2221, Atlanta, Ga.
Region V—Chicago; Center for Urban Education, 160 West Wendell St., (1050 North Wells), Chicago, Ill. 60601
Region VI—Dallas; William Travis Elementary School, 3001 McKinney St., Dallas, Tex. 75204
Region VII—Kansas City; Federal Office Bldg., 601 East 12th St., Room 140, Kansas City, Mo.
Region VIII—Denver; George Washington High School, 655 South Monaco St., Denver, Colo.
Region IX—San Francisco; Federal Office Building, Room 209, 50 United Nations Plaza, San Francisco, Calif.
Region X—Seattle; Ingram High School, Little Theater, 1819 North 135th St., Seattle, Wash.

FOR FURTHER INFORMATION CONTACT: Dr. Dorthy Sisk, telephone (202) 245–2482.

FOR INFORMATION ON REGIONAL HEARINGS CONTACT: The appropriate Regional Commissioner for Education Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.
Region II, New York, Dr. William D. Green, (212) 264–4370.
Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.
Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063.
Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215.
Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.
Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.
Region VIII, Denver, Dr. John Runkel, (303) 837–3544.
Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.
Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

SUPPLEMENTARY INFORMATION: The purposes of the Gifted and Talented Children's Educational Program are (a) to provide assistance to meet the special educational needs of the Nation's gifted and talented children and (b) to enable these children to fulfill their potential both as individuals and as a resource to the Nation.

The Gifted and Talented Children's Education Program provides financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations to plan, develop, operate, demonstrate, and improve programs designed to meet the special educational needs of gifted and talented children.

The Gifted and Talented Children's Education Program was originally authorized under section 404 of Pub. L. 93–380, the Special Projects Act. It has been reauthorization by the Education Amendments of 1978 (Pub. L. 95–561). This reauthorized places the Gifted and Talented Children's Education Act of 1978 in Part A of Title IX of the Elementary and Secondary Education Act.

The reauthorization technically restructures the previous statute by channeling 75 percent of available funding to local educational agency projects through a State-administered program. The remaining funds are available to the Commissioner for discretionary awards.

These proposed regulations contain provisions governing Federal financial assistance for:

(a) A State-administered grant program; and

(b) A discretionary grant program for:

(1) Statewide planning projects;

(2) Educational service projects;

(3) Professional development; and

(4) In-service and national leadership training.

The proposed regulations give the Commissioner the authority to select in any given year activities for funding from among the list of allowable activities in the discretionary grant program.

These proposed regulations do not contain certain types of requirements. Those requirements are covered in the Education Division's General Administrative Regulations (EDGAR), which will replace the General Provisions for Office of Education Programs Regulations and which have been published as a notice of proposed rulemaking (NPRM).

Anyone wanting to comment on those requirements should do so in response to the EDGAR notice of proposed rulemaking, rather than to this NPRM.

The following items applicable to this program will now be among those covered generally in EDGAR:

(a) For the State-administered program:

How a State applies for a grant;

How a grant is made to a State;

How to apply to the State for a subgrant;

How a subgrant is made to an applicant;

Certain conditions that must be met by the State and its subgrantees;

Administrative responsibilities of the State and its subgrantees; and

Compliance procedures used by the Commissioner of Education.

(b) For the discretionary grant program:

How to apply for a grant;

How grants are made;

Certain conditions that must be met by a grantee;

The administrative responsibilities of a grantee; and

The procedures the Office of Education uses to get compliance.

In addition, applicants are encouraged to read the statute that authorizes the program since these regulations do not incorporate provisions that are clearly stated in the statute. Copies of the statute and other relevant material will be made available to applicants with the application packet.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

Invitation To Commet

A public meeting on this Notice of Proposed Rulemaking will be held in each of the 10 Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, it would be helpful for us to know how many persons are interested in speaking about these regulations. If you are interested in making comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education, who will schedule a time for your comments. Persons who do not notify the Regional Commissioner of their intention to make comments also will be called upon according to their prearranged schedule or—if a schedule has not been prearranged—in the order of registration.

We expect that comments on these proposed regulations will be the fourth item on the agenda of the public meeting.

All comments received on or before August 24, 1979, will be considered in the preparation of final regulations.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 3835, Donohoe Building, 400 6th Street, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance Number 13.562, Gifted and Talented Program)

Dated: May 21, 1979.

Ernest L. Boyer,

Commissioner of Education.

Approved: June 17, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

PART 160b [REDESIGNATED AS PART 195]

The Commissioner redesignates Part 160b of 45 CFR as Part 195 and proposes to revise the regulations to read as follows:

PART 195—GIFTED AND TALENTED PROGRAM

Subpart A—General

Sec.

195.1 What is the Gifted and Talented Children's Education Program?
195.2 What is the State-administered Gifted and Talented Children's education Program?
195.3 Who is eligible for funds under the State-administered program?
195.4 What is the discretionary grant program?
195.5 Who is eligible for funds under the discretionary grant program?
195.6 What regulations apply to the Gifted and Talented Children's Education Program?
195.7 What definitions apply to this program?
195.8 What characteristics must a project involving children have?
195.9 [Reserved]

State Administered Program

Subpart B—How Does a State Obtain a Grant?

195.10 What documents must an SEA file with the Commissioner?
195.11 What must the State application contain?
195.12 May an applicant apply for a project lasting more than one year?
195.13—195.19 [Reserved]

Subpart C—How is a Grant Made to a State?

195.20 How is the amount of a State's grant determined?
195.21 What evaluation criteria does the Commissioner use to review applications for competitive State grants?
195.22–195.29 [Reserved]

Subpart D—How is a Subgrant Made to an LEA?

195.30 How does an LEA apply to an SEA for a grant?
195.31 May the SEA award a subgrant to an LEA for more than one year?
195.32–195.39 [Reserved]

Subpart E—[Reserved]

Subpart F—What Conditions Must be Met by the State and its Subgrantees?

195.40 Are there restrictions on the types of costs a grant may support?
195.41 Allowable costs.
195.42–195.49 [Reserved]

Discretionary Grant Program

Subpart B—What Kind of Projects Does the Office of Education Assist?

195.50 Does the Commissioner establish priorities?
195.51 On what types of activities may a statewide planning project focus?
195.52 On what types of activities may an educational service project focus?
195.53 On what types of activities may a professional development project focus?
195.54 On what types of activities may an in-service and national leadership training project focus?
195.55–195.59 [Reserved]

Subpart C—How Does an Applicant apply for a Grant?

195.60 How to apply for a grant?
195.61–195.69 [Reserved]

Subpart D—How is a Grant Made?

195.70 What criteria are used to evaluate applications for statewide planning projects?
195.71 What criteria are used to evaluate application for other discretionary projects?
195.72–195.79 [Reserved]

Subpart E—[Reserved]

Subpart F—What Conditions Must be Met by the Grantee?

195.80 Are there restrictions on the types of costs a grant may support?
195.81 Allowable costs.
195.82 What other conditions must the grantee meet?
195.83–195.89 [Reserved]
Appendix

Authority—These regulations are issued under the authority contained in Part A of Title IX of the Elementary and Secondary Education Act as amended by Pub. L. 95–561.

Subpart A—General

§ 195.1 What is the Gifted and Talented Children's Education Program?

(a) The Gifted and Talented Children's Education Program provides financial assistance through—(1) A State-administered program; and

(2) Discretionary grants and contracts awarded by the Commissioner of Education.

(b) The program is designed to—(1) Meet the special educational needs of the Nation's gifted and talented children; and

(2) Enable these children to fulfill their potential both as individuals and as a resource to the Nation.

(20 U.S.C. 3311–3318)

§ 195.2 What is the State-administered Gifted and Talented Children's Education Program?

(a) The Commissioner provides financial assistance to State educational agencies (SEAs) to plan, develop, operate, and improve programs to meet the needs of gifted and talented children at the preschool, elementary, and secondary levels.

(b) Assistance under this part may be used to—(1) Administer a program of competitive awards to local educational agencies (LEAs) for projects that meet the educational needs of gifted and talented children;

(2) Provide in-service training of personnel to teach these children;

(3) Provide technical assistance to LEAs in preparing proposals and in planning, developing, and operating programs.

(20 U.S.C. 3314)

§ 195.3 Who is eligible for funds under the State-administered program?

The following are eligible:

(a) SEAs; and

(b) If the appropriation in any year exceeds $15,000,000, those eligible parties listed in section 906 of the Act.

(20 U.S.C. 3316)

§ 195.4 What is the discretionary grant program?

The discretionary grant program establishes and maintains projects to plan, develop, operate, demonstrate, and improve programs to meet the special educational needs of gifted and talented children.

(20 U.S.C. 3315(a), (1), (2), (5))

§ 195.5 Who is eligible for funds under the discretionary grant program?

Under the discretionary grant program, the Commissioner makes awards—(a) For statewide planning grants to SEAs, and

(20 U.S.C. 3315(a)(5))

(b) For all other types of projects that the Commissioner may assist, to—(1) SEAs;

(2) LEAs;

(3) Institutions of higher education;

(4) Other public and private organizations; or

(5) Combinations of the above.

(20 U.S.C. 3315(a) (1), (2))

§ 195.6 What regulations apply to the Gifted and Talented Children's Education Program?

(a) *Regulations.* The following regulations apply to the Gifted and Talented Children's Education Program:

(1) The Education Division General Administrative Regulations (EDGAR) in part 100a (Direct Grant Programs), Part 100b (State-Administered Programs), and part 100c (Definitions).

(2) The regulations in this part.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in part 100c:

Applicant
Application
Award
Budget
Commissioner
Local educational agency (LEA)
Nonprofit
Private
Project
Public
State educational agency (SEA)

(20 U.S.C. 1232(a))

§ 195.7 What definitions apply to this program?

As used in these regulations—"Act" means the Gifted and Talented Children's Education Act of 1978;

"Child"—including the term "youth"—means any individual from age three through 18;

"Disadvantaged children from low-income families" means children in schools designated as being in a Title I, ESEA attendance area;

"Gifted and talented child" means an individual in preschool, elementary, or secondary school and who has been identified as—

(a) Demonstrating actual or potential high performance in intellectual, creative, specific academic, or leadership activities or in the performing or visual arts; and

(b) Requiring specialized education or services to develop these special skills;

(20 U.S.C. 3312)

"Indian tribe" means any Federal or State recognized tribe, band, nation, rancheria, pueblo, Alaska native village—or regional or village corporation as established by the Alaska Native Claims Settlement Act—that exercises the power of self-government;

(20 U.S.C. 3317(b); 45 CFR 187.2)

"Local educational agency" for purposes of this part means an LEA or an Indian tribe that operates schools for its children;

"Preschool" means any educational level prior to the elementary level at which educational services are required to be provided by an LEA under State law;

"Specialized education or services" means instruction or other services designed to—(a) Meet the special educational needs of gifted and talented children; and

(b) Exceed the instruction or services regularly provided to the average student at the same age or grade level; and

"State," for purposes of the award of funds under section 904 of the Act, means each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 3381(j))

§ 195.8 What characteristics must a project involving children have?

(a) Any project that involves the participation of gifted and talented children must use comprehensive and multiple methods for identifying and assessing the needs of those children. No child shall be denied participation in a project on the basis of only one method of identification. Methods of identification are—(1) *Comprehensive,* if they are sufficiently broad to assess all children who may come within the category addressed by the project, including those who are economically disadvantaged, handicapped, or culturally different, and who are in the geographic area to be served by the project; or

(2) *Multiple,* if they involve not fewer than two methods of identification, such as teacher nomination, measures of creativity, peer nomination, intelligence tests, evaluations adapted to the child's cultural norm, or other innovative strategies for identification. If tests are to be used as a means of identification, the applicant shall demonstrate a logical connection between those tests and the purposes of the project.

(b) *Instructional component.* Any project that involves an instructional component shall provide specialized educational services such as—(1) A special curriculum supplementing the regular curriculum and using a high level of cognitive and affective concepts and processes;

(2) Instructional strategies that respond to the individual learning styles or abilities of gifted and talented children; or

(3) Flexible instructional arrangements, such as special classes, seminars, resource rooms, independent study, student interships, mentorships, research field trips, library media research centers; and other appropriate arrangements.

(20 U.S.C. 3312)

§ 195.9 [Reserved]

State-Administered Program

Subpart B—How Does a State Obtain a Grant?

§ 195.10 What documents must an SEA file with the Commissioner?

(a) To receive an allotment an eligible applicant shall file with the Commissioner an application that contains the assurances required—(1) By the provision governing single State applications contained in the General Education Provisions Act; and

(2) By this Act.

(20 U.S.C. 1232d(b) and 3314(c)(1))

(b) To receive a competitive award in addition to the general application required in paragraph (a), a State shall file a separate application in response to a Notice of Closing Date published by the Commissioner in the **Federal Register.**

(20 U.S.C. 3314(b)(1); H. Rept. No. 95-1753 (Conference report) 282)

§ 195.11 What must the State application contain?

(a) A State application shall contain a plan for making subgrants on a competitive basis to LEAs to meet the educational needs of gifted and talented children.

(b) This plan shall set forth separately—(1) Criteria for awarding not less than 50 percent of the funds available to the State to LEAs for projects that include a component for identifying and serving the educational needs of gifted and talented children from low-income families; and

(2) Criteria for awarding at least 90 percent of the funds available under this program to LEA projects that are directed generally toward serving the needs of gifted and talented children. The remaining funds—up to 10 percent—may be used by the State for such purposes as administration, technical assistance, coordination, and statewide planning.

(20 U.S.C. 3314(c)(3))

§ 195.12 May an applicant apply for a project lasting more than one year?

(a) An applicant may apply for funding for a multi-year project. However, each budget period is 12 months only. In its initial application, an applicant shall provide budget projections for each year after the first year.

(b) The applicant shall file an application for a continuation award for each year beyond the first year.

(c) EDGAR, §§ 100a.250 through 100a.253 governs multi-year projects and continuation awards.

(20 U.S.C. 3315)

§§ 195.13-195.19 [Reserved]

Subpart C—How Is a Grant Made to a State?

§ 195.20 How is the amount of a State's grant determined?

There are two ways the Commissioner determines a State's grant:

(a) If the appropriation for the Act is less than $15 million, the Commissioner awards—(1) A $50,000 allotment to each eligible applicant, subject to a ratable reduction based on the appropriation; and

(20 U.S.C. 3313(b)(1))

(2) Additional amounts on a competitive basis, if the amount appropriated is greater than the total required to pay the $50,000 allotment to each applicant State.

(20 U.S.C. 3314(b)(1); H. Rept. 95-1753, Conference Report at 282)

(b) If the appropriation exceeds $15 million, the Commissioner allots funds to eligible recipients according to the formula set out in the Act.

(20 U.S.C. 3314(b)(2); 3316)

§ 195.21 What evaluation criteria does the Commissioner use to review applications for competitive State grants?

The Commissioner reviews an application for competitive funds on the basis of the criteria in this section totalling 100 possible points. The maximum possible score for each criterion indicates the relative importance assigned to that criterion by the Commissioner.

(a) *Comprehensive approach.* The extent to which the State proposes a comprehensive statewide plan to identify and meet the special educational and related needs of gifted and talented children. (25 points)

(b) *Planning.* The extent to which the State proposes to involve persons and organizations in both the public and private educational sectors inthe development of its State plan for the education of the gifted and talented. (15 points)

(c) *Technical assistance.* The quality and type of technical assistance that the SEA proposes to provide to LEAs in preparing proposals and in planning, developing, and operating LEA projects. (20 points)

(d) *Administration.* The quality of the State's proposed plan and procedures for awarding subgrants to LEAs for projects to identify and meet the general educational needs of gifted and talented children. (15 points)

(e) *Disadvantaged.* The quality of the State's proposed plan and procedures for awarding subgrants to LEAs for projects to identify and meet the educational needs of disadvantaged gifted and talented children from low-income families. (10 points)

(f) *Coordination.* The quality of the State's proposed plan to monitor LEA projects for gifted and talented children and to disseminate the results of these projects. (15 points)

(20 U.S.C. 3314(b)(1), (c))

§§ 195.22-195.29 [Reserved]

Subpart D—How Is a Subgrant Made to an LEA?

§ 195.30 How does an LEA apply to an SEA for a grant?

An LEA submits an application to an SEA according to the procedures and requirements set out in the approved State plan.

(20 U.S.C. 3314(c)(2)(B))

§ 195.31 May the SEA award a subgrant to an LEA for more than one year?

(a) A State may award to an LEA subgrants for not more than five years to meet the objectives described in the LEA application.

(b) If an LEA's initial application proposes a project requiring more than one year for completion, the LEA shall provide the State with budget projections for each year after the initial year.

(c) The LEA shall file with the State continuation applications for funding each year after the first year.

(20 U.S.C. 3317(c))

§§ 195.32-195.39 [Reserved]

Subpart E [Reserved]

Subpart F—What Conditions Must Be Met by the State and Its Subgrantees?

§ 195.40 Are there restrictions on the types of costs a grant may support?

(a) Funds may not be used for either—(1) Construction, repair, remodeling, or alteration of facilities or sites; or

(2) Stipends, substitutes, release time, transportation, or meals for participants in in-service training activities.

(b) Funds may not be used without the written authorization of the Commissioner to the SEA or the SEA to an LEA for the acquisition of either—(1) Items of non-expendable personal property costing more than $500 per unit; or

(2) Items of expendable personal property—such as data processing, memberships, subscriptions, professional travel, or conference attendance.

§ 195.41 Allowable costs.

The following costs may be paid from a grant:

(a) If a project involves an internship, the payment to each participant of an allowance that is not in excess of the entering salary for professionals in the agency or institution in which the participant is placed.

(b) If the project involves a graduate fellowship, the payment of a stipend, tuition, and fees.

(c) If the project involves in-service or national leadership training, the payment of tuition and fees for appropriate university or college courses.

(20 U.S.C. 3315(a)(1), (a)(2))

§§ 195.42–195.49 [Reserved]

Discretionary Grant Program

Subpart B—What Kinds of Projects Does the Office of Education Assist?

§ 195.50 Does the Commissioner establish priorities?

The Commissioner establishes programmatic priorities from among the activities listed in §§ 195.51, 195.52(a), 195.53, and 195.54. In any given year the Commissioner announces—through publication of a notice in the Federal Register—which of these activities will be funded.

(20 U.S.C. 3315)

§ 195.51 On what types of activities may a statewide planning project focus?

A statewide planning project may be designed to accomplish one or more of the following:

(a) Development of a comprehensive statewide approach to meet the needs of gifted and talented students.

(b) Involvement of representatives of parent groups and other public and private organizations interested in education of gifted and talented students.

(c) Development of innovative strategies to identify and serve gifted and talented children, particularly the economically disadvantaged, the handicapped, or those with culturally different backgrounds.

(d) Provision of technical assistance to help public and private schools within the State identify and meet the needs of gifted and talented students in those schools.

(20 U.S.C. 3315(a)(5))

§ 195.52 On what types of activities may an educational service project focus?

(a) An educational service project is principally designed to provide direct educational services to gifted and talented children. The project shall either—(1) Provide innovative, demonstration, or model approaches to educating gifted and talented students or particular categories of those students; or

(2) Operate, expand, or improve existing educational projects to meet the educational needs of gifted and talented students.

(b) An educational service project—in addition to meeting the educational needs of the gifted and talented—shall, as the nature of the project indicates—(1) Show evidence of planning to meet the general needs of gifted and talented students;

(2) Be capable of stimulating similar services and projects by being cost-effective and replicable;

(3) Provide in-service training for educational personnel if an instructional component is involved;

(4) Make provision to identify and serve the economically disadvantaged, handicapped, or culturally different gifted and talented student; or

(5) Involve persons and organizations outside the school in the planning and operation of the project.

(20 U.S.C. 3315(a)(1) and (2))

§ 195.53 On what types of activities may a professional development project focus?

A professional development project shall be designed to meet one or more of the following:

(a) Provide graduate level instruction leading to a degree in gifted and talented education.

(b) Provide a variety of short-term courses and instruction, focusing on the education of gifted and talented children, not leading to a degree.

(c) Provide seminars and other high-level opportunities for leaders in education, public affairs, industry, and related fields to interact with and promote the professional development of potential leaders in the education of gifted and talented students.

(d) Provide internships or similar, practical, work-training experience through public or private agencies involved with gifted and talented children.

§ 195.54 On what types of activities may an in-service or national leadership training project focus?

(a) An in-service and national leadership training project shall be designed to meet one or more of the following:

(1) Provide workshops and conferences for SEAs, LEAs, boards of education, parents, business and community groups, and other interested parties on issues related to educating gifted and talented students.

(2) Develop specialized training materials for use by SEAs, LEAs, and other agencies or groups involved in training leaders in the education of gifted and talented students.

(3) Provide support for part-time degree study related to the education of gifted and talented students.

(4) Enable individuals serving gifted and talented students to develop special skills to better educate those students.

(b) The proposed project must also provide for appropriate followup sessions during the school year subsequent to summer institutes, workshops, or conferences.

(20 U.S.C. 3315(a) (1), (2))

§§ 195.55–195.59 [Reserved]

Subpart C—How Does an Applicant Apply for a Grant?

§ 195.60 How to apply for a grant.

The Commissioner considers making a grant to an eligible applicant only if the applicant prepares and submits an application according to—(a) The regulations in this part that govern discretionary grants;

(b) The applicable provisions in EDGAR;

(c) The procedures and priorities contained in the notices published in the Federal Register; and

(d) The instructions and forms included in the application package.

§§ 195.61–195.69 [Reserved]

Subpart D—How Is a Grant Made?

§ 195.70 What criteria are used to evaluate applications for statewide planning projects?

(a) Criteria that the Commissioner uses to evaluate applications for statewide planning projects are contained in EDGAR §§ 100a.202 through 100a.207. These criteria comprise 100 possible points. The value assigned to each criterion indicates the relative importance the Commissioner places on that criterion.

(1) Plan of operation. (35 points)

(2) Qualtiy of key personnel. (25 points)

(3) Budget and cost effectiveness. (15 points)

(4) Evaluation plan. (15 points)

(5) Adequacy of resources. (10 points)

§ 195.71 What criteria are used to evaluate applications for other discretionary projects?

(a) General criteria that the Commissioner uses to evaluate applications for other discretionary projects are contained in EDGAR §§ 100a.202 through 100a.207. The general criteria comprise 30 possible points. The value assigned to each criterion indicates the relative importance the Commissioner places on that criterion.

(1) Plan of operation. (10 points)
(2) Quality of key personnel. (7 points)
(3) Budget and cost effectiveness. (5 points)
(4) Evaluation plan. (5 points)
(5) Adequacy of resources. (3 points)

(b) The Commissioner also uses criteria specific to this program to evaluate applications. The specific criteria comprise 70 possible points, as follows:

(1) *Level and quality of program.* The extent to which the applicant proposes a comprehensive program or provides quality courses or specialized services to develop the skills of the gifted and talented children being served; or, in the case of a personnel training project, the skills of the participants. (25 points)

(2) *Selection of participants.* The quality of the proposed procedures for identifying and selecting participants. (15 points)

(3) *Specially trained personnel, mentors, or advisors.* The extent to which the applicant will provide specially trained personnel or experienced mentors or advisors to direct or assist the participants. (15 points)

(4) *Replication.* The extent to which the proposed project can be adapted for use by other agencies. (5 points)

(5) *Dissemination.* The extent to which the applicant indicates a capacity to make widely available information about the project or specialized materials. (5 points)

(6) *Needs assessment.* The extent to which the applicant, identifies the special educational needs of the gifted and talented children to be served directly or indirectly by the project. (5 points)

(20 U.S.C. 3315(a) (1) and (2))

§§ 195.72–195.79 [Reserved]

Subpart E [Reserved]

Subpart F—What Conditions Must Be Met by the Grantee?

§ 195.80 Are there restrictions on the types of costs a grant may support?

(a) Funds may not be used for either—

(1) Construction, repair, remodeling, or alteration of facilities or sites; or

(2) Stipends, substitutes, release time, transportation, or meals for participants in in-service training activities.

(b) Funds may not be used without the written authorization of the Commissioner for the acquisition of either—

(1) Items of non-expendable personal property costing more than $500 per unit; or

(2) Items of expendable personal property—such as data processing, memberships, subscription, professional travel, or conference attendance.

§ 195.81 Allowable costs.

The following costs may be paid from a grant:

(a) If a project involves an internship, the payment to each participant of an allowance that is not in excess of the entering salary for professionals in the agency or institution in which the participant is placed.

(b) If the project involves a graduate fellowship, the payment of a stipend, tuition, and fees.

(c) If the project involves in-service or national leadership training, the payment of tuition and fees for appropriate university or college courses.

(20 U.S.C. 3315(a)(1), (a)(2))

§ 195.82 What other conditions must the grantee meet?

The grantee shall show in its application that it is committed to serving the gifted and talented. The grantee shall do this by providing evidence it plans to continue the project after Federal funding ceases.

(20 U.S.C. 3315(a) (1), (2), (5))

§§ 195.83–195.89 [Reserved]

Appendix—Assurances—State-administered Program

The State or outlying area assures the Commissioner that it will conduct the State-administered program to meet the educational needs of gifted and talented children—set out in part 195—in accordance with the following provisions:

(a) Funds paid to the State educational agency (SEA) will be used for planning, developing, operating, and improving a program to meet the needs of gifted and talented children—

(1) On the State level, through administration, technical assistance, coordination, and Statewide planning; and

(2) through the award of competitive grants to local educational agencies (LEAs) for local educational projects.

(b) The programs and projects supported by funds under this part—

(1) Are designed to identify the educational needs of gifted and talented children;

(2) Are of sufficient size, scope, and quality to hold reasonable promise of making substantial progress toward meeting those needs; and

(3) Give appropriate consideration to the particular educational needs of disadvantaged children from low-income families.

(20 U.S.C. 3314(c)(1)

(c) The SEA will reserve from funds received in any fiscal year under this part not more than 10 percent for administration, technical assistance, coordination, and planning. From that reserved amount the SEA may use up to one-half to provide to LEAs that are unable to compete—due to smaller size or lack of financial resources—technical assistance in preparing proposals and in planning, developing, and operating programs under this part.

(20 U.S.C. 3314(c) (2)(A), (6))

(d) The SEA will distribute to LEAs on a competitive basis 90 percent of the funds it receives for the purposes of this part. The SEA will make available not less than one-half of the funds available to the SEA for projects that include a component for the identification and education of disadvantaged gifted and talented children from low-income families.

(20 U.S.C. 3314(c) (2)(B), (3))

(e) Unless the following requirements cannot legally be met in the State—

(1) Assistance under this part will also be made available to pupils and teachers in private elementary and secondary schools; and

(2) No LEA application for funds will be approved by the SEA unless it contains evidence that the LEA consulted with private school officials or took other appropriate steps to include in its project gifted and talented children attending private elementary or secondary schools.

(20 U.S.C. 3314(c)(5) (A), (B); 3086)

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Monday
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Part V

Department of Commerce

National Oceanic and Atmospheric Administration

Consistency for Department of the Interior Outer Continental Shelf (OCS) Prelease Sale Activities and for Other Federal Activities Directly Affecting the Coastal Zone

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 930

Consistency for Department of the Interior Outer Continental Shelf (OCS) Prelease Sale Activities and for Other Federal Activities Directly Affecting the Coastal Zone

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends existing regulations to provide conformance with the U.S. Justice Department opinion, dated April 20, 1979, which concludes that the Department of the Interior's Outer Continental Shelf (OCS) prelease sale activities which directly affect the coastal zone must be undertaken in a manner consistent, to the maximum extent practicable, with the requirements of approved coastal management programs in accordance with section 307(c)(1) of the Coastal Zone Management Act (CZMA), as amended. The opinion further provides that the phrase "directly affecting" in section 307(c)(1) of the CZMA, which specifically applies to OCS prelease sale activities, should be included in the regulations instead of using alternative language such as "significantly" affecting the coastal zone in terms of "primary," "secondary" and "cumulative" impacts presently in the regulations. The amendments to the regulations also include minor editorial modifications and corrections.

EFFECTIVE DATE: June 25, 1979.

FOR FURTHER INFORMATION CONTACT: Michael E. Shapiro, Policy and Program Evaluation, Office of Coastal Zone Management, (202) 634–4245, NOAA, Page Building 1, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION:

(A) Consistency for OCS Prelease Sale Activities

On April 20, 1979, the U.S. Department of Justice issued an opinion which concluded that neither the CZMA Amendments of 1976 nor the OCS Lands Act Amendments of 1978 repealed the application of section 307(c)(1) consistency to the Department of the Interior's OCS prelease sale activities. The opinion jointly was requested by the Commerce and Interior Departments because they were unable to agree on whether section 307(c)(1) applied to OCS preleasing activities (see 42 FR 43591–92, August 29, 1977, and 43 FR 10512, March 13, 1978). The Justice Department opinion supports the position taken by the Department of Commerce on this point.

Department of the Interior (DOI) OCS prelease sale activities include the determination of tracts to be offered for sale and choice of lease stipulations. In cases where these types of actions directly affect the coastal zones of States with approved coastal programs, DOI must ensure that the actions are conducted in a manner consistent, to the maximum extent practicable, with coastal program provisions. This requirement is now embodied in a *Comment* under § 930.71 of the regulations.

In reaching its decision, the Justice Department took notice of the legislative history of the OCS Lands Act Amendments where Congress indicated that:

> "Under the Coastal Zone Management Act of 1972, as amended in 1976 (16 U.S.C. 1451 et seq.), certain OCS activities including lease sales and approval of development and production plans must comply with "consistency" requirements as to coastal management plans approved by the Secretary of Commerce. Except for specific changes made by Titles IV and V of the (OCS Lands Act) Amendments, nothing in this Act is intended to amend, modify or repeal any provision of the Coastal Zone Management Act. Specifically, nothing is intended to alter procedures under the Act for consistency once a State has an approved Coastal Zone Management Plan." (H. Report 95–590, p. 153, fn. 52.)

The Justice Department also pointed out that the application of section 307(c)(1) consistency to DOI's OCS prelease sale activities complements the section 307(c)(3)(B) consistency requirement applicable to lessee OCS plans because:

> "It is well possible that some of the preleasing activities of the Secretary of the Interior will give rise to consistency problems which cannot be reviewed at all under the paragraph (B) procedure, or for which such review comes too late."

Accordingly, section 307(c)(1) of the CZMA applies to DOI's OCS prelease sale activities directly affecting the coastal zone. As indicated in Subpart C of the regulations, the "directly affecting" threshold test is normally to be applied on a case-by-case basis, depending on the factual character of the Federal activity under review. Implementation of this requirement at the OCS prelease sale stage should lead to minimization of adverse coastal environmental and socioeconomic impacts, thereby reducing conflicts with affected States and avoiding delay in the exploitation of offshore energy resources. The Office of Coastal Zone Management will be available to work closely with DOI and affected coastal States to ensure expeditious implementation and coordination for this requirement.

(B) The Phrase "Directly Affecting" the Coastal Zone

In the same opinion, the Justice Department took issue with the Department of Commerce regulations that define the section 307(c)(1) phrase "directly affecting" the coastal zone to mean "significantly" affecting the coastal zone in terms of "primary," "secondary" and "cumulative" impacts (see 15 CFR 930.21, 43 FR 10518–19, March 13, 1978). The Justice Department determined that the plain language of the statute should control and declared that the issue—under what circumstances a given Federal activity "directly affected" a State's coastal zone—is essentially one of fact. The Justice Department concluded that Congress explicitly expressed an intent in the CZMA to apply different standards to the various consistency provisions and, therefore, no justification for eliminating these statutory distinctions exists.

In response to this opinion, NOAA is deleting the definition "significantly affecting the coastal zone" in section 930.21, and will use, without definition, the term "directly affecting" in Subpart C of the regulations (Consistency for Federal Activities). Similarly, the "significant" effect test will no longer apply to Federal actions covered by Subpart D (Consistency for Activities requiring a Federal License or Permit), Subpart E (Consistency for Outer Continental Shelf Exploration, Development and Production Activities) and Subpart F (Consistency for Federal Assistance to State and Local Governments). In Subparts D, E and F, the term "affecting the coastal zone" will be used, again without definition. This is the common statutory threshold test used in sections 307(c)(3)(a), 307(c)(3)(B) and 307(d) of the CZMA.

While the amended regulations will not include definitions for the terms "directly affecting the coastal zone" and "affecting the coastal zone," guidance in this Supplementary Information in the form of regulatory and legislative history is intended to assist Federal and State agencies, as well as other affected parties, in their efforts to determine when the consistency requirements of the CZMA apply to Federal actions.

In the proposed Federal consistency regulations issued in September 1976, NOAA first adopted the decision, to which it has now returned, of using the threshold terms of the CZMA (i.e., "directly affecting" the coastal zone, and "affecting" the coastal zone) without attempting to define rigidly their meaning. NOAA stated that, "these terms will speak for themselves and difficulties will be addressed on a case-by-case basis" (41 FR 42880, September 28, 1976).

Thereafter, in reproposed regulations issued in August 1977, NOAA attempted to define these terms in response to comments requesting clarification. NOAA prefaced its definition with a statement indicating that a precise definition would be impossible to develop in light of the absence of clear Congressional guidance. Then, based on analogous language in another section of the CZMA as well as language which first appeared as part of the Federal consistency provisions of proposed national land use legislation, NOAA adopted the "significantly affecting" threshold test for section 307(c)(1) of the CZMA (see 42 FR 43590, 43598, August 29, 1977).

Later, in the final consistency regulations issued in March, 1978, a new term and definition—"significantly affecting the coastal zone"—was adopted to apply to all Federal actions subject to the consistency requirements of the CZMA. This change was in response to comments suggesting that Congressional intent, although not explicit, appeared to revolve around the need to capture within the consistency requirements only those Federal actions capable of "significantly" affecting the coastal zone (see 43 FR 10511, 10518, March 13, 1978). The Justice Department opinion has led us back to our original view that precise definitions for these terms are impossible to create.

While the legislative history is quite general on the matter, it does set some bounds within which the threshold test may be applied. The Conference Report to the CZMA of 1972 merely restates the statutory language while noting that Federal actions both inside and outside of the coastal zone are captured by the consistency provisions when threshold effects are reached. Other Congressional committee reports reference an interest in "significant" effects on coastal resources. Still other legislative history is written in terms of applying the consistency requirements whenever Federal activities within or adjacent to the coastal zone are determined to have a "functional interrelationship from an economic, social, or geographic standpoint" with lands and waters within the coastal zone.

The consistency provisions are unique and Congress thus far has left the affected parties with a certain amount of discretion to work out the details of their novel intergovernmental coordination efforts. As a practical matter, States, Federal agencies and other affected parties have not had serious problems in agreeing on whether a Federal action will reach a threshold of impact upon coastal zone resources sufficient to warrant the initiation of the cooperative dialogue called for by the Federal consistency requirements. Intergovernmental coordination has been the general rule because of the benefits which accrue. By virtue of the consistency provisions, a decision that a proposed Federal action may impact the coastal zone leads to consultation with the State to ensure that the action will be undertaken in a manner which conforms with the preservation and development criteria within the State's coastal program. Further, the consistency information provides the State with an opportunity to review and comment on the proposal, and assists the State in planning for and managing the anticipated coastal zone effects. Given the advantages to be derived from this process, all affected parties are encouraged to continue to construe liberally the threshold tests to favor inclusion of Federal actions subject to consistency review.

Amended Regulations Effective Immediately

Since the amendments to the regulations described above are required as a matter of law, NOAA hereby finds for good cause, in accordance with 5 U.S.C. 553 (b) and (d), that notice and public procedures on such regulatory amendments and the 30-day delay prior to the effective date of amendments are unnecessary. Pursuant to section 2.03 of NOAA Directive 21–24, the implementation of Executive Order 12044, NOAA has determined that these regulation amendments are not significant.

For the convenience of the public, the Federal consistency regulations, as amended, are displayed in their entirety to reflect the modifications issued in response to: (i) The requirements of the Outer Continental Shelf Lands Act Amendments of 1978 (see 44 FR 3705, January 18, 1979), (ii) the opinion of the U.S. Department of Justice dated April 20, 1979 (see discussion above), and (iii) the need to provide minor editorial modifications and corrections.

Dated: June 11, 1979.

R. L. Carnahan,

Assistant Administrator for Administration.

Accordingly, 15 CFR Part 930 is revised to read as follows:

PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

Subpart A—Objectives

Sec.
930.1 Overall Objectives.

Subpart B—General Definitions

930.10 Index to definitions.
930.11 Act.
930.12 Section.
930.13 Secretary.
930.14 Executive Office of the President.
930.15 OCZM.
930.16 Assistant Administrator.
930.17 Federal agency.
930.18 State agency.
930.19 Management program.
930.20 Coastal Zone.
930.21 Associated facilities.

Subpart C—Consistency for Federal Activities

930.30 Objectives.
930.31 Federal activity.
930.32 Consistent to the maximum extent practicable.
930.33 Identifying Federal activities directly affecting the coastal zone.
930.34 Federal agency consistency determinations.
930.35 Federal and State agency coordination.
930.36 Availability of mediation for negative determination disputes.
930.37 Consistency determinations for proposed activities.
930.38 Consistency determinations for activities initiated prior to management program approval.
930.39 Content of a consistency determination.
930.40 Multiple Federal agency participation.
930.41 State agency response.
930.42 State agency disagreement.
930.43 Availability of mediation for disputes concerning proposed activities.
930.44 Availability of mediation for previously reviewed activities.

Subpart D—Consistency for Activities Requiring a Federal License or Permit

930.50 Objectives
930.51 Federal license or permit.
930.52 Applicant.
930.53 Management program license and permit listing.
930.54 Unlisted Federal license and permit activities.
930.55 Availability of mediation for license or permit disputes.
930.56 State agency guidance and assistance to applicants; information requirements.
930.57 Consistency certifications.
930.58 Necessary data and information.

930.59 Multiple permit review.
930.60 Commencement of State agency review.
930.61 Public notice.
930.62 Public hearings.
930.63 State agency concurrence with a consistency certification.
930.64 State agency objection to a consistency certification.
930.65 Federal permitting agency responsibility.
930.66 Availability of mediation for previously reviewed activities.

Subpart E—Consistency for Outer Continental Shelf (OCS) Exploration, Development and Production Activities

930.70 Objectives.
930.71 Federal license or permit activity described in detail.
930.72 Person.
930.73 OCS plan.
930.74 OCS activities subject to State agency review.
930.75 State agency assistance to persons; information requirements.
930.76 Submission of an OCS plan and consistency certification.
930.77 Necessary data and information.
930.78 Commencement of State agency review; public notice.
930.79 State agency concurrence or objection.
930.80 Effect of State agency concurrence.
930.81 Federal permitting agency responsibility.
930.82 Multiple permit review.
930.83 Amended or new OCS plans.
930.84 Review of amended or new OCS plans; public notice.
930.85 Continuing State agency objections.
930.86 Failure to comply substantially with an OCS plan.

Subpart F—Consistency for Federal Assistance to State and Local Governments

930.90 Objectives.
930.91 Federal assistance.
930.92 Applicant agency.
930.93 OMB A-95 process.
930.94 Guidance provided by the State agency.
930.95 OMB A-95 project notification and review.
930.96 Consistency review.
930.97 Federal assisting agency responsibility.
930.98 Federally assisted activities outside of the coastal zone or the described geographic area.
930.99 Availability of mediation for Federal assistance disputes.
930.100 Availability of mediation for previously reviewed activities.

Subpart G—Secretarial Mediation

930.110 Objectives.
930.111 Informal negotiations.
930.112 Request for mediation.
930.113 Public hearings.
930.114 Secretarial mediation efforts.
930.115 Termination of mediation.
930.116 Judicial review.

Subpart H—Secretarial Review Related to the Objectives or Purposes of the Act and National Security Interests

930.120 Objectives.
930.121 Consistent with the objectives or purposes of the Act.
930.122 Necessary in the interest of national security.
930.123 Appellant.
930.124 Informal discussions
930.125 Appeals to the Secretary.
930.126 Federal and State agency responses to appeals.
930.127 Public notice; receipt of comments.
930.128 Dismissal of appeals.
930.129 Public hearings.
930.130 Secretarial review.
930.131 Federal agency responsibility.
930.132 Review initiated by the Secretary.
930.133 Public notice; receipt of comments; public hearings.
930.134 Secretarial review; Federal agency responsibility.

Subpart I—Assistant Administrator Reporting and Continuing Review of Federal Actions Subject to the Federal Consistency Requirements

930.140 Objectives.
930.141 Notification of Federal actions believed to be inconsistent with approved management programs.
930.142 Notification of Federal actions believed to have been incorrectly determined to be inconsistent with an approved management program.
930.143 Assistant Administrator reporting.
930.144 Assistant Administrator advisory statements.
930.145 Review of the implementation of the Federal consistency provisions.

Authority.—Secs. 307, 316 and 317, Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280 (16 U.S.C. 1451 et seq.), as amended by Pub. L. 94-370, 90 Stat. 1013.

Subpart A—Objectives

§ 930.1 Overall objectives.

The objectives of these regulations are: (a) To describe the obligations of all agencies, individuals and other parties who are required to comply with the Federal consistency provisions of the Coastal Zone Management Act;

(b) To implement the Federal consistency provisions in a manner which strikes a balance between the need to ensure consistency for Federal actions affecting the coastal zone with approved coastal management and the need to promote Federal programs;

(c) To provide flexible procedures which foster intergovernmental cooperation and minimize duplicative effort and unnecessary delay, while making certain that the objectives of the Federal consistency provisions of the Act are satisfied;

(d) To interpret significant terms in the Federal consistency provisions so that they can be uniformly understood and adhered to by all agencies, individuals and other affected parties;

(e) To provide procedures to make certain that all Federal agency and State agency consistency decisions are directly related to the objectives, policies, standards and other criteria set forth in, or referenced as part of, approved coastal management programs;

(f) To provide procedures which the Secretary, in cooperation with the Executive Office of the President, may use to mediate serious disagreements which arise between Federal and State agencies during the administration of approved coastal management programs;

(g) To provide procedures which permit the Secretary to review Federal license or permit activities, or Federal assistance activities, to determine whether they are consistent with the objectives or purposes of the Act, or are necessary in the interest of national security;

(h) To provide procedures which permit interested parties to notify the Assistant Administrator for Coastal Zone Management of Federal actions believed to be inconsistent with approved coastal management programs, or believed to have been incorrectly determined to be inconsistent with an approved management program; and

(i) To provide procedures for the reporting of any Federal actions found by the Assistant Administrator for Coastal Zone Management to be inconsistent with an approved coastal zone management program, and for the performance review of State implementation of the Federal consistency provisions.

Subpart B—General Definitions

§ 930.10 Index to definitions.

The following list includes all terms defined in Part 930 of this title keyed to the section or paragraph in which they are defined.

Term	Section
Act	930.11
Appellant	930.123
Applicant	930.52
Applicant agency	930.92
Assistant Administrator	930.16
Associated facilities	930.21
Coastal Zone	930.29
Consistent to the maximum extent practicable	930.32
Consistent with the objectives or purposes of the Act	930.121
Development project	930.31(b)
Executive Office of the President	930.14
Failure substantially to comply with an OCS plan	930.86(d)
Federal activity	930.31
Federal agency	930.17
Federal assistance	930.91

Term	Section
Federal license or permit	930.51
Federal license or permit activity described in detail	930.71
Management program	930.19
Necessary in the interest of national security	930.122
OCS plan	930.73
OCZM	930.15
OMB A-95 process	930.93
Person	930.72
Secretary	930.13
Section	930.12
State agency	930.18

§ 930.11 Act.

The term "Act" means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.).

§ 930.12 Section.

The term "Section" means a section of the Coastal Zone Management Act of 1972, as amended.

§ 930.13 Secretary.

The term "Secretary" means the Secretary of the U.S. Department of Commerce.

§ 930.14 Executive Office of the President.

The term "Executive Office of the President" means the office, council, board, or other entity within the Executive Office of the President which shall participate with the Secretary in seeking to mediate serious disagreements which may arise between a Federal agency and a coastal State.

§ 930.15 OCZM.

The term "OCZM" means the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 930.16 Assistant Administrator.

The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 930.17 Federal agency.

The term "Federal agency" means any department, agency, board, commission, council, independent office or similar entity within the executive branch of the Federal Government, or any wholly owned Federal Government corporation.

§ 930.18 State agency.

(a) The term "State agency" means the agency of the State government designated pursuant to section 306(c)(5) of the Act to receive and administer grants for an approved coastal management program, or a single designee State agency appointed by the 306(c)(5) State agency. Any appointment by the 306(c)(5) State agency of a designee agency must be described in the State's management program. In the absence of such description, all consistency determinations, consistency certifications and Federal assistance proposals shall be sent to and reviewed by the 306(c)(5) State agency.

(b) The State agency is responsible for commenting on Federal agency consistency determinations (see subpart C of this part), concurring with or objecting to consistency certifications for Federal licenses, permits, and Outer Continental Shelf plans (see subparts D and E of this part), and reviewing the consistency of Federal assistance activities proposed by State or local government agencies (see subpart F of this part). The State agency shall be responsible for securing necessary review and comment from other State, regional, or local government agencies. Thereafter, only the State agency is authorized to comment officially on a Federal consistency determination, concur with or object to a consistency certification, or determine the consistency of a proposed Federal assistance activity.

§ 930.19 Management program.

The term "management program" has the same definition as provided in section 304(11) of the Act, except that for the purposes of this part the term is limited to those management programs adopted by a coastal State in accordance with the provisions of section 306 of the Act, and approved by the Assistant Administrator.

§ 930.20 Coastal zone.

The term "coastal zone" has the same definition as provided in section 304(1) of the Act.

(*Comment.* See 15 CFR 923.33 for a discussion of the relationship between the Federal consistency provisions of the Act and Federal lands excluded from the boundaries of the coastal zone.)

§ 930.21 Associated facilities.

The term "associated facilities" describes all proposed facilities:

(a) Which are specifically designed, located, constructed, operated, adapted, or otherwise used, in full or in major part, to meet the needs of a Federal action (e.g., activity, development project, license, permit, or assistance), and

(b) Without which the Federal action, as proposed, could not be conducted.

All further requirements in this part related to the review of and consistency for Federal activities including development projects (see subpart C of this part), Federal license and permit activities (see subparts D and E of this part) and Federal assistance activities (see subpart F of this part) also apply to associated facilities related to those Federal actions. Therefore, the proponent of a Federal action must consider whether the Federal action and its associated facilities affect the coastal zone and, if so, whether these interrelated activities satisfy the relevant consistency requirement of the Act.

(*Comment.* Associated facilities are, in reality, an indispensable part of the proposed Federal action. Accordingly, this section requires their concurrent review along with the remainder of the proposal to ensure that the State agency is informed of all the critical elements of the proposal. As a result, the State agency will have complete information to fulfill its coastal planning and management responsibilities, and the proponent of the Federal action will not be faced with the situation where there has been receipt of State agency approval regarding one element of the project with later objection to an associated facility which was not earlier reviewed with the remainder of the proposal. For example, this section requires a Federal agency to make certain that both a proposed Federal waste treatment facility and a proposed pipeline connection which must be constructed to meet the needs of the facility are consistent, to the maximum extent practicable, with an approved management program where these interrelated activities directly affect the coastal zone (see subpart C of this part).)

Subpart C—Consistency for Federal Activities

§ 930.30 Objectives.

The provisions of this subpart are provided to assure that all Federally conducted or supported activities including development projects directly affecting the coastal zone are undertaken in a manner consistent to the maximum extent practicable with approved State coastal management programs.

(*Comment.* Statutory citation, Subsection 307(c)(1): "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs."

Subsection 307(c)(2):

"Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.")

§ 930.31 Federal activity.

(a) The term "Federal activity" means any functions performed by or on behalf

of a Federal agency in the exercise of its statutory responsibilities.

(*Comment.* A Federal activity is performed on behalf of a Federal agency in situations where a contractor will undertake the construction, operation, or other functions of the Federal agency. For example, the private construction of a Federal military installation meets this test.)

(b) A Federal development project is a Federal activity involving the planning, construction, modification, or removal of public works, facilities, or other structures, and the acquisition, utilization, or disposal of land or water resources.

(c) The term "Federal activity" does not include the issuance of a Federal license or permit to an applicant or person (see subparts D and E of this part) or the granting of Federal assistance to an applicant agency (see subpart F of this part).

(*Comments.* Federal activities other than development projects may be viewed as a residual category covering Federal actions which are neither Federal development projects nor activities covered by the Federal license, permit and assistance subparts. Examples would include:

(1) Federal waste disposal plans developed for Federal facilities pursuant to statutory or regulatory directives (the plan is an activity but not a development project);

(2) Federal agency activities requiring a Federal license or permit (such activities by Federal agencies are not covered by the Federal license and permit subpart); and

(3) Federal assistance for housing development to entities other than State and local governments, such as to private interests or Indian tribes (the Federal assistance provisions in subpart F only apply to State and local government applicants for Federal assistance).)

§ 930.32 Consistent to the maximum extent practicable.

(a) The term "consistent to the maximum extent practicable" describes the requirement for Federal activities including development projects directly affecting the coastal zone of States with approved management programs to be fully consistent with such programs unless compliance is prohibited based upon the requirements of existing law applicable to the Federal agency's operations. If a Federal agency asserts that compliance with the management program is prohibited, it must clearly describe to the State agency the statutory provisions, legislative history, or other legal authority which limits the Federal agency's discretion to comply with the provisions of the management program.

(*Comment.* The word "practicable" within this definition means capable of being done. When modified by the phrase "to the maximum extent," the complete term means to the fullest degree permitted by existing law. Federal agency conformance with existing law is preserved as a result of section 307(e) of the Act which declares that:

"Nothing in this title shall be construed: (1) To diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) As superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.")

The duty the Act imposes upon Federal agencies is not set aside by virtue of section 307(e). The Act was intended to cause substantive changes in Federal agency decisionmaking within the context of the discretionary powers residing within such agencies. Accordingly, when read together, sections 307(c) (1) and (2) and 307(e) require Federal agencies, whenever legally permissible, to consider State-management programs as supplemental requirements to be adhered to in addition to existing agency mandates.

(b) A Federal agency may deviate from full consistency with an approved management program when such deviation is justified because of some unforeseen circumstances arising after the approval of the management program which present the Federal agency with a substantial obstacle that prevents complete adherence to the approved program.

(*Comment.* The legislative history of the Act states that Congress did not anticipate "that there will be any considerable number of situations where as a practical matter a Federal agency cannot conduct or support activities without deviating from approved State management programs." This anticipated result stems from Congress' intent that Federal agencies consult with the Secretary and State agencies during program development so that "any aspects or phases of the proposed program which are deemed by any agency to be impractical to carry out or support will be brought to the attention of the Secretary and steps will be taken at that point to iron out whatever differences appear to be established." To ensure this intergovernmental consultation, Congress provided that: (i) management programs be developed and adopted with an opportunity for full participation by affected Federal agencies (section 306(c)(1)), (ii) the Secretary shall not approve a management program unless the views of affected Federal agencies have been adequately considered (section 307(b)), and (iii) the Secretary, in cooperation with the Executive Office of the President, seek to mediate serious disagreements between any Federal agency and a coastal state regarding the development of a management program (section 307(h)(1)). Congress, however, indicated in the legislative history a need to permit deviations from management program provisions in limited cases where circumstances arise which were not foreseen at the time of program approval, and such circumstances create a substantial obstacle preventing complete adherence to the approved program. Accordingly, the rule in paragraph (a) requiring full consistency with the management program, when legally permissible, will apply in a substantial majority of cases with exceptions permitted only for the special circumstances described in paragraph (b).)

§ 930.33 Identifying Federal activities directly affecting the coastal zone.

(a) Federal agencies shall determine which of their activities directly affect the coastal zone of States with approved management programs.

(b) Federal agencies shall consider all development projects within the coastal zone to be activities directly affecting the coastal zone. All other types of activities within the coastal zone are subject to Federal agency review to determine whether they directly affect the coastal zone.

(*Comment.* Some Federal activities, such as a particular resource procurement practice, may not have the potential for causing a direct effect upon the coastal zone even when undertaken within the coastal zone.)

(c) Federal activities outside of the coastal zone (e.g., on excluded Federal lands, on the Outer Continental Shelf, or landward of the coastal zone) are subject to Federal agency review to determine whether they directly affect the coastal zone.

(*Comment.* A determination that a proposed Federal activity directly affects the coastal zone leads to two important benefits. First, this finding requires the Federal agency to review the activity to assure that it will be undertaken in a manner consistent to the maximum extent practicable with an approved management program and, second, the consistency determination will provide the State agency with an opportunity to review and comment on the proposed activity, and will assist the State in planning for and managing the anticipated coastal zone effects. Given the benefits to be derived from this process, Federal agencies are encouraged to construe liberally the "directly affecting" test in borderline cases so as to

favor inclusion of Federal activities subject to consistency review.)

§ 930.34 Federal agency consistency determinations.

(a) Federal agencies shall provide State agencies with consistency determinations for all Federal activities directly affecting the coastal zone. The Federal agency may provide the State agency with this information in any manner it chooses so long as the requirements of this Subpart are satisfied.

(*Comment.* Federal agencies are strongly encouraged to provide consistency determinations to State agencies through use of existing notification procedures (e.g., OMB Circular A–95, NEPA environmental impact statements, memoranda of understanding, etc.) in order to avoid waste, duplication of effort, and to reduce Federal and State agency administrative burdens. The use of existing procedures is permissible so long as such procedures are modified or supplemented as necessary to satisfy the requirements of this Subpart.)

(b) Federal agencies shall provide State agencies with a consistency determination at the earliest practicable time in the planning or reassessment of the activity. A consistency determination should be prepared following development of sufficient information to determine reasonably the consistency of the activity with the State's management program, but before the Federal agency reaches a significant point of decisionmaking in its review process. The consistency determination shall be provided to State agencies at least 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to an alternative notification schedule.

(*Comment.* Federal and State agencies are encouraged to agree upon flexible procedures for extending the notification requirement beyond 90 days for major activities requiring a substantial period for adequate review, and for lessening the notification period for minor activities.)

§ 930.35 Federal and State agency coordination.

(a) State agencies should list in their management programs Federal activities which, in the opinion of the State agency, are likely to directly affect the coastal zone and require a Federal agency consistency determination. Listed Federal activities must be described in terms of the specific type of activity involved (e.g., Federal reclamation projects). In the event the State agency chooses to describe Federal activities outside of the coastal zone but likely to directly affect the coastal zone, it must also describe the geographic location of such activities (e.g., reclamation projects in coastal floodplains).

(*Comment.* During management program development, Federal agencies should inform State agencies of their Federal activities. From this description, the Federal and State agencies should develop agreements regarding those Federal activities likely to directly affect the coastal zone, and these activities should be the ones listed in the management program.

(b) State agencies should monitor unlisted Federal activities (e.g., by use of OMB Circular A–95 review, review of National Environmental Policy Act (NEPA) environmental impact statements, etc.) and should notify Federal agencies of unlisted Federal activities which Federal agencies have not subjected to a consistency review but which, in the opinion of the State agency, directly affect the coastal zone and require a Federal agency consistency determination. State agencies must notify Federal agencies within 45 days from receipt of notice of the unlisted Federal activity, otherwise the State agency waives its right to request a consistency determination. The waiver does not apply in cases where the State agency does not receive notice of the Federal activity (e.g., for those Federal activities which are not processed through A–95 review, NEPA review or a similar procedure which permits State agency monitoring).

(*Comment.* During management program development, Federal and State agencies should develop agreements to modify or supplement existing intergovernmental coordination procedures (e.g., A–95 review) to make certain that State agencies are provided a reasonable opportunity to monitor all Federal activities likely to directly affect the coastal zone.)

(c) The recommended listing and monitoring procedures described in paragraphs (a) and (b) of this section are neither a substitute for nor eliminate Federal agency responsibility under §§ 930.33(b) and 930.34 to provide State agencies with consistency determinations for all development projects in the coastal zone and for all other Federal activities which the Federal agency finds directly affect the coastal zone.

(*Comment.* The provisions in paragraphs (a) and (b) simply represent recommended procedures for facilitating State agency review of Federal activities which reasonably can be expected to directly affect the coastal zone. Whether adopted in full, in part, or not at all by Federal and State agencies, the responsibility of Federal agencies to provide State agencies with information regarding all Federal activities directly affecting the coastal zone continues to apply. Accordingly, the failure of a State agency to either list or monitor Federal activities does not remove the requirement for Federal agencies to provide State agencies with consistency determinations when the Federal agency independently concludes that the proposed activity will directly affect the coastal zone.)

(d) If a Federal agency decides that a consistency determination is not required for a Federal activity (1) identified by a State agency on its list or through case-by-case monitoring, (2) which is the same as or similar to activities for which consistency determinations have been prepared in the past, or (3) for which the Federal agency undertook a thorough consistency assessment and developed initial findings on the effects of the activity on the coastal zone, the Federal agency shall provide the State agency with a notification, at the earliest practicable time in the planning of the activity, briefly setting forth the reasons for its negative determination. A negative determination shall be provided to the State agency at least 90 days before final approval of the activity, unless both the Federal agency and the State agency agree to an alternative notification schedule.

(*Comment.* The negative determination procedures are provided to assure State agencies an opportunity to review borderline cases.)

§ 930.36 Availability of mediation for negative determination disputes.

In the event of a serious disagreement between a Federal agency and a State agency regarding a determination related to whether a proposed activity directly affects the coastal zone, either party may seek the Secretarial mediation services provided for in Subpart G.

§ 930.37 Consistency determinations for proposed activities.

(a) Federal agencies shall review their proposed Federal activities which directly affect the coastal zone in order to develop consistency determinations which indicate whether such activities will be undertaken in a manner consistent to the maximum extent practicable with approved State management programs. Federal agencies are encouraged to consult with State agencies during their efforts to assess whether such activities will be consistent to the maximum extent practicable with such programs.

(b) In cases where Federal agencies will be performing repeated activity other than a development project (e.g., ongoing maintenance, waste disposal,

etc.) which cumulatively has a direct effect upon the coastal zone, the agency may develop a general consistency determination thereby avoiding the necessity of issuing separate consistency determinations for each incremental action controlled by the major activity. A general consistency determination may only be used in situations where the incremental actions are repetitive or periodic, substantially similar in nature, and do not directly affect the coastal zone when performed separately. If a Federal agency issues a general consistency determination, it must thereafter periodically consult with the State agency to discuss the manner in which the incremental actions are being undertaken.

(c) In cases where the Federal agency has sufficient information to determine the consistency of a proposed development project from planning to completion, only one consistency determination will be required. However, in cases where major Federal decisions related to a proposed development project will be made in phases based upon developing information, with each subsequent phase subject to Federal agency discretion to implement alternative decisions based upon such information (e.g., planning, siting, and design decisions), a consistency determination will be required for each major decision. In cases of phased decisionmaking, Federal agencies shall ensure that the development project continues to be consistent to the maximum extent practicable with the State's management program.

§ 930.38 Consistency determinations for activities initiated prior to management program approval.

(a) A consistency determination will be required for ongoing Federal activities other than development projects (e.g., waste disposal practices) initiated prior to management program approval, which are governed by statutory authority under which the Federal agency retains discretion to reassess and modify the activity. In these cases the consistency determination must be made by the Federal agency at the earliest practicable time following management program approval, and the State agency must be provided with a consistency determination no later than 120 days after management program approval for ongoing activities which the State agency lists or identifies through monitoring as subject to consistency with the management program.

(*Comment.* The Act requires Federal agencies which are "conducting or supporting" activities directly affecting the coastal zone to comply with the Federal consistency requirements. Therefore, if a Federal agency is undertaking an activity at the time of management program approval and the program provisions require modification of the activity, the Federal agency must issue a consistency determination to the State agency indicating how the activity will be conducted in a manner consistent to the maximum extent practicable with the approved program. In these cases, Federal agencies should consider general revisions of regional directives to reflect the consistency obligations which result following program approval.)

(b) A consistency determination shall be required for major, phased Federal development project decisions described in § 930.37(c) which are made following management program approval and are related to development projects initiated prior to program approval. In making these new decisions, Federal agencies shall consider coastal zone effects not fully evaluated at the outset of the project. This provision shall not apply to phased Federal decisions which were specifically described, considered and approved prior to management program approval (e.g., in a final environmental impact statement issued pursuant to the National Environmental Policy Act).

§ 930.39 Content of a consistency determination.

(a) The consistency determination shall include a brief statement indicating whether or not the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the management program. The statement must be based upon an evaluation of the relevant provisions of the management program. The consistency determination shall also include a detailed description of the activity, its associated facilities, and their coastal zone effects, and comprehensive data and information sufficient to support the Federal agency's consistency statement. The amount of detail in the statement evaluation, activity description and supporting information shall be commensurate with the expected effects of the activity on the coastal zone.

(*Comment.* As a preliminary matter, Federal agencies are strongly encouraged to obtain the views and assistance of the State agency regarding the provisions of the management program which are related to the proposed activity and the information necessary to determine whether the proposed activity will be conducted in a manner consistent to the maximum extent practicable with the management program.)

(b) Federal agencies shall be guided by the following in making their consistency determinations. The activity (e.g., project siting and constuction), its direct effects (e.g., air, water, waste discharges, etc.), and associated facilities (e.g., proposed siting and construction of access road, connecting pipeline, support buildings, etc.) and the direct effects of the associated facilities (e.g., erosion, wetlands, beach access impacts, etc.) must all be consistent to the maximum extent practicable with the management program. Although nonassociated facilities (e.g., recreational housing which is induced by but not necessarily related to a Federal harbor dredging project—see § 930.21) must be included within the consistency determination's description of the direct effects of the activity, Federal agencies are not responsible for evaluating the consistency of such facilities.

(*Comment.* Following notification from the Federal agency, the responsibility for planning for and managing the impacts caused by proposed nonassociated facilities rests with the State agency. Through the requirements of the management program the State agency has the authority to prohibit or control the development of facilities which are not directly associated with the proposed Federal activity (e.g., by enforcing land use/zoning requirements, by denying or conditioning the issuance of State or local governmental coastal permits, by objecting to the consistency of Federal permits or assistance that might be required for the facilities, etc.).)

(c) In making their consistency determinations, Federal agencies shall give appropriate weight to the various types of provisions within the management program. Federal agencies must ensure that their activities are consistent to the maximum extent practicable with the enforceable, mandatory policies of the management program. However, Federal agencies need only give adequate consideration to management program provisions which are in the nature of recommendations. Finally, Federal agencies do not have to evaluate coastal zone effects for which the management program does not contain mandatory or recommended policies because, in the absence of such provisions, there is no basis for making a consistency determination with respect to such effects.

(*Comment.* The consistency obligations imposed by the Act are only as extensive as the provisions of the management program. Therefore, to the extent a Federal activity relates to coastal issues which are addressed by the management program only in the form of recommended policies, Federal agencies

need only give adequate consideration to such recommendations. Similarly, in the absence of any relevant management program policies related to certain effects caused by a Federal activity, the Federal agency is without any provisions or criteria to measure the consistency of the activity. In the event management program administration reveals the existence of additional coastal issues which should be addressed by the management program, the State agency should pursue program amendments to deal with emerging problems.)

(d) When Federal agency standards are more restrictive than standards or requirements contained in the State's management program, the Federal agency may continue to apply its stricter standards (e.g., restrict project development or design alternatives notwithstanding permissive management program policies). In such cases the Federal agency should inform the State agency in the consistency determination of the statutory, regulatory or other basis for the application of the stricter standards.

§ 930.40 Multiple Federal agency participation.

Whenever more than one Federal agency is involved in conducting or supporting a Federal activity or its associated facilities directly affecting the coastal zone, or is involved in a group of Federal activities related to each other because of their geographic proximity, consideration should be given to the preparation of one consistency determination for all the Federal activities involved. In such cases, Federal agencies should consider joint preparation or lead agency development of the consistency determination. In either case, the consistency determination (a) must be transmitted to the State agency at least 90 days before final decisions are taken by any of the participating agencies, (b) must indicate whether or not each of the proposed activities is consistent to the maximum extent practicable with the management program, and (c) must include information on each proposed activity sufficient to support the consistency determination.

§ 930.41 State agency response.

(a) A State agency shall inform the Federal agency of its agreement or disagreement with the Federal agency's consistency determination at the earliest practicable time. If a final response has not been developed and issued within 45 days from receipt of the Federal agency notification, the State agency should at that time inform the Federal agency of the status of the matter and the basis for further delay. The Federal agency may presume State agency agreement if the State agency fails to provide a response within 45 days from receipt of the Federal agency notification.

(b) State agency agreement shall not be presumed in cases where the State agency, with the 45 day period, requests an extension of time to review the matter. Federal agencies shall approve one request for an extension period of 15 days or less. In considering whether a longer or additional extension period is appropriate, the Federal agency should consider the magnitude and complexity of the information contained in the consistency determination.

(c) Final Federal agency action may not be taken sooner than 90 days from the issuance of the consistency determination to the State agency unless both the Federal agency and the State agency agree to an alternative period (see § 930.34(b)).

(*Comment.* The requirement in paragraph (c) is simply derived for the provision in § 930.34(b) which directs Federal agencies to provide State agencies with consistency information at least 90 days prior to the anticipated date of final approval of the Federal activity. This requirement is reiterated here to emphasize the opportunity for continued intergovernmental consultation in the event Federal and State agency concerns are not fully resolved within the 60-day period (45/15) of the State agency review.)

§ 930.42 State agency disagreement.

(a) In the event the State agency disagrees with the Federal agency's consistency determination, the State agency shall accompany its response to the Federal agency with its reasons for the disagreement and supporting information. The State agency response must describe (1) how the proposed activity will be inconsistent with specific elements of the management program, and (2) alternative measures (if they exist) which, if adopted by the Federal agency, would allow the activity to proceed in a manner consistent to the maximum extent practicable with the management program.

(b) If the State agency's disagreement is based upon a finding that the Federal agency has failed to supply sufficient information (see § 930.39(a)), the State agency's response must describe the nature of the information requested and the necessity of having such information to determine the consistency of the Federal activity with the management program.

(c) State agencies shall send to the Assistant Administrator a copy of responses which describe disagreements with Federal agency consistency determinations.

(*Comment.* In the event of a disagreement, the Federal and State agencies should utilize the remaining portion of the 90-day notice period to attempt to resolve their differences. In cases of continuing State agency disagreement, Federal agencies are encouraged to suspend implementation of the activity beyond the 90-day period pending resolution of the disagreement.)

§ 930.43 Availability of mediation for disputes concerning proposed activities.

(a) In the event of a serious disagreement between a Federal agency and a State agency regarding the consistency of a proposed Federal activity directly affecting the coastal zone, either party may request the Secretarial mediation services provided for in Subpart G.

§ 930.44 Availability of mediation for previously reviewed activities.

(a) Federal and State agencies shall cooperate in their efforts to monitor Federally approved activities in order to make certain that such activities continue to be undertaken in a manner consistent, to the maximum extent practicable, with the State's management program.

(b) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency's objection to a Federal activity which was: (i) previously determined to be consistent to the maximum extent practicable with the State's management program, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, is no longer consistent to the maximum extent practicable with the State's management program, or (ii) previously determined not to be a Federal activity directly affecting the coastal zone, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, the activity directly affects the coastal zone and is not consistent to the maximum extent practicable with the State's management program. The State agency's request must include supporting information and a proposal for recommended remedial action.

(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists, either party may request the Secretarial mediation services provided for in Subpart G.

Subpart D—Consistency for Activities Requiring a Federal License or Permit

§ 930.50 Objectives.

The provisions of this subpart are provided to assure that Federally licensed or permitted activities affecting the coastal zone are conducted in a manner consistent with approved management programs.

(*Comment.* Statutory citation: Subsection 307(c)(3)(A): "After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed.")

§ 930.51 Federal license or permit.

(a) The term "Federal license or permit" means any authorization, certification, approval, or other form of permission which any Federal agency is empowered to issue to an applicant.

(*Comment.* All Federal leases are included within the definition of "Federal license or permit" with the exception of leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).)

(b) The term also includes the following types of renewals and major amendments which affect the coastal zone:

(1) Renewals and major amendments of Federal license and permit activities not previously reviewed by the State agency;

(2) Renewals and major amendments of Federal license and permit activities previously reviewed by the State agency which are filed after and are subject to management program amendments not in existence at the time of original State agency review; and

(3) Renewals and major amendments of Federal license and permit activities previously reviewed by the State agency which will cause coastal zone effects substantially different than those originally reviewed by the State agency.

(*Comment.* Paragraph (b) is founded on the principle that an applicant does not have a vested right to receive approval of a renewal or a major amendment without first complying with the law existing at the time approval is sought. However, this principle must operate in the context of avoiding unnecessary State agency review. Therefore, subparagraph (1) assures the State agency of an opportunity to review licenses and permits which were originally approved by the Federal government prior to management program approval and are subject to major amendment or renewal following management program approval. In the event the State agency has previously reviewed a license or permit activity, further review is limited to cases where changes in management program provisions necessitate reevaluation of the activity (subparagraph (2)), or the activity will be modified substantially causing new coastal zone effects (subparagraph (3)).)

§ 930.52 Applicant.

The term "applicant" means any individual, public or private corporation, partnership, association, or other entity organized or existing under the laws of any State, or any State, regional, or local government, who, following management program approval, files an application for a Federal license or permit to conduct an activity affecting the coastal zone. The term "applicant" does not include Federal agencies applying for Federal licenses or permits. Federal agency "activities" requiring Federal licenses or permits are subject to the consistency requirements of subpart C of this Part.

§ 930.53 Management program license and permit listing.

(a) During management program development, Federal agencies should assist State agencies in identifying Federal license and permit activities which reasonably can be expected to affect the coastal zone.

(b) State agencies shall develop a list of Federal license and permit activities which are likely to affect the coastal zone and which the State agency wishes to review for consistency with the management program. The list shall be included as part of the management program, and the Federal license and permit activities shall be described in terms of the specific licenses or permits involved (e.g., Corps of Engineers 404 permits, Coast Guard bridge permits, etc.). In the event the State agency chooses to review Federal licenses and permits for activities outside of the coastal zone but likely to affect the coastal zone, it must generally describe the geographic location of such activities.

(*Comment.* The location element should encompass only areas where Federal license and permit activities are likely to cause effects on coastal zone resources. For example, the management program could list a Federal land use permit (e.g., Forest Service right-of-way permits for logging roads) and require review whenever such a permit is requested along riverine areas where development is likely to affect downstream areas within the coastal zone. The State agency should exclude geographic areas outside of the coastal zone where Federal license and permit activities will not reasonably be expected to have impacts on coastal zone resources.)

(c) If a State agency wishes to avoid repeated review of minor Federally permitted activities which, while individually inconsequential, cumulatively cause effects on the coastal zone, the State agency, after developing conditions allowing concurrence for such activities, may issue a general public notice (see § 930.61) and general concurrence allowing similar minor work in the same geographic area to proceed without prior State agency review. In such cases, the State agency must set forth in the management program license and permit list the minor Federal license and permit activities and the relevent conditions which are covered by the general concurrence. Minor Federal license or permit activities which satisfy the conditions of the general concurrence are not subject to the consistency certification requirement of this subpart. Except in cases where the State agency indicates otherwise, copies of Federal license or permit applications for activities subject to a general concurrence must be sent by the applicant to the State agency to allow the State agency to monitor adherence to the conditions required by such concurrence. Confidential and proprietary material within such applications may be deleted.

(d) The license and permit list may be amended by the State agency following consultation with the affected Federal agency and approval of additions or deletions by the Assistant Administrator. The State agency shall provide copies of the list and any amendments to Federal agencies and shall make the information available to the public.

(*Comment.* States which have received Federal approval for management programs which do not contain a license and permit list must add the list to the management program.)

(e) No Federal license or permit described on an approved list shall be issued by a Federal agency until the requirements of this subpart have been satisfied. Federal agencies shall inform applicants for listed licenses and permits of the requirements of this subpart.

§ 930.54 Unlisted Federal license and permit activities.

(a) With the assistance of Federal agencies, State agencies should monitor unlisted Federal license and permit activities (e.g., by use of OMB Circular A–95 review, review of NEPA environmental impact statements, etc.) and shall immediately notify Federal agencies and applicants of unlisted activities affecting the coastal zone which require State agency review. State agencies must inform the Federal agency and applicant within 30 days from notice of the license or permit application, otherwise the State agency waives its right to review the unlisted activity. The waiver does not apply in cases where the State agency does not receive notice of the Federal license or permit activity.

(b) The State agency must also notify the Assistant Administrator of unlisted Federal license or permit activities which the State agency believes should be subject to State agency review. Following State agency notification to the Federal agency, applicant and the Assistant Administrator, the Federal agency may not issue the license or permit until the requirements of this Subpart have been satisfied, unless the Assistant Administrator disapproves the State agency decision to review the activity.

(c) The Federal agency and the applicant have 15 days from receipt of the State agency notice to provide comments to the Assistant Administrator regarding the State agency's decision to review the activity. The sole basis for the Assistant Administrator's approval or disapproval of the State agency's decision will relate to whether the proposed activity can be reasonably expected to affect the coastal zone of the State. The Assistant Administrator shall issue a decision, with supporting comments, to the State agency, Federal agency and applicant within 30 days from receipt of the State agency notice.

(d) In the event of disapproval by the Assistant Administrator, the Federal agency may approve the license or permit application and the applicant need not comply with the requirements of this subpart. If the Assistant Administrator approves the State agency's decision, the Federal agency and applicant must comply with the consistency certification procedures of this subpart.

(*Comment.* The procedures in this section are provided to ensure that State agencies are afforded an opportunity to review any Federal license or permit activity which reasonably can be expected to affect the coastal zone. The need for Assistant Administrator intervention will most likely occur only in borderline cases. Prior to bringing the issue before the Assistant Administrator, the concerned parties should consider whether or not the proposed activity, assuming it would affect the coastal zone, will be conducted in a manner consistent with the management program. If affirmative, further delay can be avoided by simply seeking the State agency's expeditious concurrence rather than attempting to avoid altogether State agency review. On the other hand, applicants should weigh this approach in connection with their right to be free from State agency review in cases where proposed Federal license and permit activities can not reasonably be expected to affect the coastal zone.)

(e) Following an approval by the Assistant Administrator, the applicant shall amend the Federal application by including a consistency certification and shall provide the State agency with a copy of the certification along with necessary supporting data and information (see §§ 930.63 and 930.64). For the purposes of this section, concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection within six months from the originial Federal agency notice to the State agency (see paragraph (a) of this section) or within three months from receipt of the applicant's consistency certification and accompanying information, whichever period terminates last.

§ 930.55 Availability of mediation for license or permit disputes.

In the event of a serious disagreement between a Federal and State agency regarding whether a listed or unlisted Federal license or permit activity is subject to consistency review, either party may request the Secretarial mediation services provided for in subpart G; notice shall be provided to the applicant. The existence of a serious disagreement will not relieve the Federal agency from the responsibility for withholding approval of a license or permit application for an activity on an approved management program list (see § 930.53) or individually approved by the Assistant Administrator (see § 930.54) pending satisfaction of the requirements of this subpart. Similarly, the existence of a serious disagreement will not prevent the Federal agency from approving a license or permit activity which has not received Assistant Administrator approval.

§ 930.56 State agency guidance and assistance to applicants; information requirements.

(a) As a preliminary matter, any applicant for a Federal license or permit selected for review by a State agency should obtain the views and assistance of that agency regarding the means for ensuring that the proposed activity will be conducted in a manner consistent with the State's management program. As part of its assistance efforts, the State agency shall make available for public inspection copies of the management program document.

(b) The management program as originally approved or amended may describe requirements regarding the data and information necessary to assess the consistency of Federal license and permit activities. Required data and information may not include confidential and proprietary material. In the case of approved amendments, State agencies shall send copies to relevant Federal agencies who shall, in turn, provide the information requirements to applicants. If a State does not choose to develop or amend its management program to include information requirements, the applicant must, at a minimum, supply the State agency with the information required by § 930.58.

(*Comment.* Necessary information and data may include State or local government permits which are required in addition to the Federal license or permit. If this measure is adopted, the State agency may declare in the management program that following the issuance of the required public notice (see § 930.61) concurrence will be granted based upon the applicant's receipt of the State or local government permits.)

§930.57 Consistency certifications.

(a) When satisfied that the proposed activity meets the Federal Consistency requirements of this subpart, all applicants for Federal licenses or permits subject to State agency review shall provide in the application to the Federal licensing or permitting agency a certification that the proposed activity complies with and will be conducted in a manner consistent with the State's approved management program. At the same time, the applicant shall furnish to the State agency a copy of the certification.

(b) The applicant's consistency certification shall be in the following form: "The proposed activity complies with (name of State) approved coastal management program and will be conducted in a manner consistent with such program."

§ 930.58 Necessary data and information.

(a) The applicant shall furnish the State agency with necessary data and information along with the consistency certification. Such information and data shall include the following:

(1) A detailed description of the proposed activity and its associated facilities which is adequate to permit an assessment of their probable coastal zone effects. Maps, diagrams, technical data and other relevant material must be submitted when a written description alone will not adequately describe the proposal (a copy of the Federal application and all supporting material provided to the Federal agency should also be submitted to the State agency).

(2) Information required by the State agency pursuant to § 930.56(b).

(3) A brief assessment relating the probable coastal zone effects of the proposal and its associated facilities to the relevant elements of the management program.

(4) A brief set of findings, derived from the assessment, indicating that the proposed activity (e.g., project siting and construction), its associated facilities (e.g., access road, support buildings), and their effects (e.g., air, water, waste discharges, erosion, wetlands, beach access impacts) are all consistent with the provisions of the management program. In developing findings, the applicant shall give appropriate weight to the various types of provisions within the management program. While applicants must be consistent with the enforceable, mandatory policies of the management program, they need only demonstrate adequate consideration of policies which are in the nature of recommendations. Applicants need not make findings with respect to coastal zone effects for which the management program does not contain mandatory or recommended policies.

(Comment. Although nonassociated facilities must be included within the description of coastal zone effects of the activity, the applicant is not responsible for assessing the consistency of such facilities—see § 930.21.)

(b) At the request of the applicant, interested parties who have access to information and data required by subparagraphs (a) (1) and (2) of this section may provide the State agency with all or part of the material required. Furthermore, upon request by the applicant, the State agency shall provide assistance for developing the assessment and findings required by paragraphs (a) (3) and (4) of this section.

(c) When satisfied that adequate protection against public disclosure exists, applicants should provide the State agency with confidential and proprietary information which the State agency maintains is necessary to make a reasoned decision on the consistency of the proposal. State agency requests for such information must be related to the necessity of having such information to assess adequately the coastal zone effects of the proposal.

§ 930.59 Multiple permit review.

(a) Applicants shall, to the extent practicable, consolidate related Federal license and permit activities affecting the coastal zone for State agency review. State agencies shall, to the extent practicable, provide applicants with a "one-stop" multiple permit review for consolidated permits to minimize duplication of effort and to avoid unnecessary delays.

(b) A State agency objection to one or more of the license or permit activities submitted for consolidated review shall not prevent the applicant from receiving Federal agency approval for those license and permit activities found to be consistent with the management program.

§ 930.60 Commencement of State agency review.

(a) Except as provided in § 930.54(e), State agency review of an applicant's consistency certification begins at the time the State agency receives a copy of the consistency certification, and the information and data required pursuant to § 930.58.

(b) A State agency request for information or data in addition to that required by § 930.58 shall not extend the date of commencement of State agency review.

§ 930.61 Public notice.

(a) Following receipt of the material described in § 930.60 the State agency shall ensure timely public notice of the proposed activity. At a minimum the provision of public notice must be in accordance with State law. In addition, public notice must be provided in the immediate area of the coastal zone which is likely to be affected by the proposed activity. Public notice shall be expanded in proportion to the degree of likely public interest resulting from the unique geographic area involved, the substantial commitment of or impact on coastal resources, the complexity or controversy of the proposal, or for other good cause.

(b) Public notice shall facilitate public comment by providing a summary of the proposed activity, by announcing the availability for inspection of the consistency certification and accompanying public information and data, and by requesting that comments be submitted to the State agency.

(c) A number of procedural options, if permitted by State law, are available to State agencies to satisfy the public notice requirements of this Subpart. They include, but are not limited to:

(1) the State agency providing the public notice;

(2) the State agency requiring the applicant to provide the public notice; or

(3) the State agency relying upon the public notice provided by the Federal agency reviewing the application for the Federal license or permit (e.g., A-95 public notices, notice of availability of NEPA environmental impact statements) if such notice satisfies the minimum requirements set forth in paragraphs (a) and (b) of this section.

(d) Federal and State agencies are encouraged to issue joint public notices whenever possible to minimize duplication of effort and to avoid unnecessary delays.

§ 930.62 Public hearings.

(a) At the discretion of the State agency, public notice may include the announcement of one or more public hearings. Public hearings shall be scheduled with a view towards (1) allowing access to the consistency certification and accompanying public information within a reasonable time prior to the hearing, (2) facilitating broad public attendance and participation at the hearing, and (3) affording the applicant expeditious consideration of the proposed activity.

(b) Federal and State agencies are encouraged to hold joint public hearings in the event both agencies determine that a hearing on the action is necessary.

§ 930.63 State agency concurrence with a consistency certification.

(a) At the earliest practicable time, the State agency shall notify the Federal agency and the applicant whether the State agency concurs with or objects to a consistency certification. Concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection within six months following commencement of State agency review.

(b) State agencies should restrict the period of public notice, receipt of comments, hearing proceedings and final decision-making to the minimum time necessary to inform the public, obtain sufficient comment, and develop a reasonable decision on the matter. If the State agency has not issued a decision within three months following commencement of State agency review, it shall notify the applicant and the Federal agency of the status of the matter and the basis for further delay.

(c) If the State agency issues a concurrence or is conclusively presumed to concur with the applicant's consistency certification, the Federal agency may approve the Federal license or permit application. Notwithstanding State agency concurrence with a consistency certification, the Federal permitting agency may deny approval of the Federal license or permit application. Federal agencies should not delay processing applications pending receipt of a State agency's concurrence. In the event a Federal agency determines that an application will not be approved, it shall immediately notify the applicant and the State agency.

(*Comment:* Concurrent review of a proposal will complement the consistency review process and minimize time delays. The early notification of a Federal agency's intent to deny approval for an application will preclude the need for further State agency review.)

§ 930.64 State agency objection to a consistency certification.

(a) If the State agency objects to the applicant's consistency certification within six months following commencement of review, it shall notify the applicant, Federal agency and Assistant Administrator of the objection.

(b) State agency objections must describe (1) how the proposed activity is inconsistent with specific elements of the management program, and (2) alternative measures (if they exist) which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the management program.

(c) During the period when the State agency is reviewing the consistency certification, the applicant and the State agency should attempt to agree upon conditions, which, if met by the applicant, would permit State agency concurrence. The parties shall also consult with the Federal agency responsible for approving the Federal license or permit to ensure that proposed conditions satisfy Federal as well as State management program requirements.

(d) A State agency objection may be based upon a determination that the applicant has failed, following a written State agency request, to supply the information required pursuant to § 903.58. If the State agency objects on the grounds of insufficient information, the objection must describe the nature of the information requested and the necessity of having such information to determine the consistency of the activity with the management program.

(e) A State agency objection shall include a statement informing the applicant of a right of appeal to the Secretary on the grounds described in Subpart H.

§ 930.65 Federal permitting agency responsibility.

Following receipt of a State agency objection to a consistency certification, the Federal agency shall not issue the Federal license or permit except as provided in Subpart H of this part.

§ 930.66 Availability of mediation for previously reviewed activities.

(a) Federal and State agencies shall cooperate in their efforts to monitor Federally licensed and permitted activities in order to make certain that such activities continue to conform to both Federal and State requirements.

(b) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency objection to a Federally licensed or permitted activity which was: (1) Previously determined to be consistent with the State's management program, but which the State agency later maintains is being conducted or is having coastal zone effects substantially different than originally proposed and, as a result, is no longer consistent with the State's management program; or (2) previously determined not to be an activity affecting the coastal zone, but which the State agency later maintains is being conducted or is having coastal effects substantially different than originally proposed and, as a result, the activity affects the coastal zone in a manner inconsistent with the State's management program. The State agency's request must include supporting information and a proposal for recommended remedial action; a copy of the request must be sent to the applicant.

(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists with the Federal agency, either party may seek the Secretarial mediation services provided for in Subpart G of this part.

Subpart E—Consistency for Outer Continental Shelf (OCS) Exploration, Development and Production Activities

§ 930.70 Objectives.

The provisions of this subpart are provided to assure that all Federal license and permit activities described in detail in OCS plans and which affect the coastal zone are conducted in a manner consistent with approved coastal zone management programs.

(*Comment.* Statutory citation: Subsection 307(c)(3)(B):

"After the management program of any coastal state has been approved by the Secretary under Section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan together with any other necessary data and information, and until:

(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such state with such certification is conclusively presumed, as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate Federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; * * *

"If a state concurs or is conclusively presumed to concur, * * *, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to

which such concurrence * * * applies, if such state objects to such certification, * * * of if such person fails substantially to comply with such plan, as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.")

§ 930.71 Federal license or permit activity described in detail.

The term "Federal license or permit activity described in detail" means any activity requiring a Federal license or permit, as defined in § 930.51, which the Secretary of the Interior determines must be described in detail within an OCS plan.

(*Comment.* The Department of the Interior's OCS prelease sale "activities," such as determination of tracts to be offered and choice of lease sale stipulations, are subject to the requirements of Subpart C. OCS plan Federal license and permit activities which are not required to be described in detail in the plan are subject to the requirements of Subpart D.)

§ 930.72 Person.

The term "person" means any individual, corporation, partnership, association, or other entity organized or existing under the laws of any State, the Federal government, any State, regional, or local government, or any entity of such Federal, State, regional or local government, who submits to the Secretary of the Interior, or designee following management program approval, an OCS plan which describes in detail Federal license or permit activities.

§ 930.73 OCS plan.

(a) The term "OCS plan" means any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act [43 U.S.C. Sec. 1331 et seq.), and the regulations under that Act, which is submitted to the Secretary of the Interior or designee following management program approval and which describes in detail Federal license or permit activities.

(b) The requirements of this subpart do not apply to Federal license and permit applications filed after management program approval for activities described in detail in OCS plans approved by the Secretary of the Interior or designee prior to management program approval.

§ 930.74 OCS activities subject to State agency review.

Except for States which do not anticipate coastal zone effects resulting from OCS activities, management program lists required pursuant to § 930.53 shall include a reference to OCS plans which describe in detail Federal license and permit activities affecting the coastal zone.

§ 930.75 State agency assistance to persons; information requirements.

(a) As a preliminary matter, any person intending to submit to the Secretary of the Interior and OCS plan which describes in detail Federal license or permit activities affecting the coastal zone should obtain the views and assistance of the State agency regarding the means for ensuring that such activities will be conducted in a manner consistent with the State's management program. As part of its assistance efforts, the State agency shall make available for inspection copies of the management program document.

(b) In accordance with the provisions in § 930.56(b), the management program as originally approved or amended may describe requirements regarding data and information which will be necessary for the State agency to assess the consistency of the Federal license and permit activities described in detail in OCS plans.

§ 930.76 Submission of an OCS plan and consistency certification.

Any person submitting to the Secretary of the Interior or designee any OCS plan shall:

(a) Identify all activities described in detail in the plan which are subject to State agency review;

(b) When satisfied that the proposed activities meet the Federal consistency requirements of this Subpart, provide the Secretary of the Interior or designee with a consistency certification, attached to the OCS plan, and the Secretary of the Interior or designee shall furnish the State agency a copy of the OCS plan (excluding proprietary information) and consistency certification.

(c) The person's consistency certification shall be in the following form:

The proposed activities described in detail in this plan comply with [name of State(s)] approved coastal management program[s] and will be conducted in a manner consistent with such program(s).

§ 930.77 Necessary data and information.

(a) The State agency shall use the information received pursuant to the Department of the Interior's operating regulations governing exploration, development and production operations on the OCS (see 30 CFR § 250.34) and regulations pertaining to the OCS information program (see 30 CFR Part 252) to determine the consistency of proposed Federal license and permit activities described in detail in OCS plans.

(b) The person shall supplement the information provided by paragraph (a) of this section by supplying the State agency with:

(1) Information required by the State agency pursuant to § 930.75(b).

(2) A brief assessment relating the probable coastal zone effects of the activities and their associated facilities to the relevant elements of the management program, and

(3) A brief set of findings, derived from the assessment, indicating that each of the proposed activities (e.g., drilling, platform placement) and their associated facilities (e.g., onshore support structures, offshore pipelines), and their effects (e.g., air, water, waste discharge, erosion, wetlands, beach access impacts) are all consistent with the provisions of the management program. In developing findings, the person shall give appropriate weight to the various provisions within the management program in accordance with the guidance provided in § 930.58(a)(4).

(*Comment.* Although nonassociated facilities must be included within the description of coastal zone effects of the activities, the person is not responsible for assessing the consistency of such facilities.)

(c) At the request of the person, interested parties who have access to information required by paragraphs (a) and (b)(1) of this section may provide the State agency with all or part of the material required. Furthermore, upon request by the person, the State agency shall provide assistance for developing the assessment and findings required by paragraphs (b) (2) and (3) of this section.

(d) When satisfied that adequate protection against public disclosure exists, persons should provide the State agency with confidential and proprietary information which the State agency maintains is necessary to make a reasoned decision on the consistency of the proposed activities. State agency requests for such information must be related to the necessity of having such information to assess adequately the coastal zone effects of the proposed activities.

§ 930.78 Commencement of State agency review; public notice.

(a) State agency review of the person's consistency certification begins at the time the State agency receives a copy of the OCS plan, consistency certification, and required necessary data and information. A State agency request for information and data in addition to that required by § 930.77 shall not extend the date of commencement of State agency review.

(b) Following receipt of the material described in paragraph (a) of this section, the State agency shall ensure timely public notice of the proposed activities in accordance with the directives within §§ 930.61–930.62.

§ 930.79 State agency concurrence or objection.

(a) At the earliest practicable time, the State agency shall notify the person, the Secretary of the Interior or designee and the Assistant Administrator of its concurrence with or objection to the consistency certification. State agencies should restrict the period of public notice, receipt of comments, hearing proceedings and final decision-making to the minimum time necessary to inform the public, obtain sufficient comment, and develop a reasonable decision on the matter. If the State agency has not issued a decision within three months following commencement of State agency review, it shall notify the person, the Secretary of the Interior or designee and the Assistant Administrator of the status of review and the basis for further delay in issuing a final decision. Notice shall be in written form and postmarked no later than three months following the State agency's receipt of the certification and supporting information. Concurrence by the State agency shall be conclusively presumed if the notification required by this subparagraph is not provided.

(b) Concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection to the consistency certification within six months following commencement of State agency review.

(c) If the State agency objects to one or more of the Federal license or permit activities described in detail in the OCS plan, it must provide a separate discussion for each objection in accordance with the directives within § 930.64 (b) and (d). The objection shall also include a statement informing the person of a right of appeal to the Secretary on the grounds described in Subpart H.

[*Comment:* Except for the requirements for State agencies to take certain actions within three months and to inform the Secretary of the Interior or designee of consistency decisions, the provisions in this section are comparable to those described in §§ 930.63–930.64).

§ 930.80 Effect of State agency concurrence.

(a) If the State agency issues a concurrence or is conclusively presumed to concur with the person's consistency certification, the person will not be required to submit additional consistency certifications and supporting information for State agency review at the time Federal applications are actually filed for the Federal licenses and permits to which such concurrence applies.

(b) Unless the State agency indicates otherwise, copies of Federal license and permit applications for activities described in detail in an OCS plan which has received State agency concurrence shall be sent by the person to the State agency to allow the State agency to monitor the activities. Confidential and proprietary material within such applications may be deleted.

§ 930.81 Federal permitting agency responsibility.

Following receipt of a State agency objection to a consistency certification related to Federal license or permit activities described in detail in an OCS plan, the Federal agency shall not issue any of such licenses or permits except as provided in Subpart H of this part.

§ 930.82 Multiple permit review.

(a) A person submitting a consistency certification for Federal license or permit activities described in detail in an OCS plan is strongly encouraged to work with other Federal agencies in an effort to include, for consolidated State agency review, consistency certifications and supporting data and information applicable to OCS-related Federal license and permit activities affecting the coastal zone which are not required to be described in detail in OCS plans but which are subjected to State agency consistency review (e.g., Corps of Engineer permits for the placement of structures on the OCS and for dredging and the transportation of dredged material, Environmental Protection Agency air and water quality permits for offshore operations and onshore support and processing facilities, etc.). In the event the person does not consolidate such OCS-related permit activities with the State agency's review of the OCS plan, such activities will remain subject to individual State agency review under the requirements of Subpart D of this part.

[*Comment.* Persons are encouraged to consolidate permits for State agency review as this process can (i) minimize the delay in the review and approval of both OCS plan and OCS-related Federal licenses and permits, (ii) provide the State agency with comprehensive information on all aspects of OCS operations, thereby assisting the State in planning for and managing these activities, and (iii) provide the person with added certainty regarding the manner in which all OCS operations may proceed consistent with the management program.]

(b) A State agency objection to one or more of the OCS-related Federal license or permit activities submitted for consolidated review shall not prevent the person from receiving Federal agency approval (1) for those OCS-related license or permit activities found by the State agency to be consistent with the management program, and (2) for the license and permit activities described in detail in the OCS plan provided the State agency concurs with the consistency certification for such plan. Similarly, a State agency objection to the consistency certification for an OCS plan shall not prevent the person from receiving Federal agency approval for those OCS-related license or permit activities determined by the State agency to be consistent with the management program.

§ 930.83 Amended or new OCS plans.

If the State agency objects to the person's OCS plan consistency certification, and if, pursuant to subpart H, the Secretary does not determine that each of the objected to Federal license or permit activities described in detail in such plan is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, the person shall submit an amended or new plan to the Secretary of the Interior or designee and to the State agency along with a consistency certification and data and information necessary to support the new consistency determination. The data and information shall specifically describe modifications made to the original OCS plan, and the manner in which such modifications will ensure that all of the proposed Federal license or permit activities described in detail in the amended or new plan will be conducted in a manner consistent with the State's management program.

§ 930.84 Review of amended or new OCS plans; public notice.

(a) After receipt of a copy of the amended or new OCS plan, consistency certification, and accompanying data

and information, State agency review shall begin.

(b) Following receipt of the material described in paragraph (a) of this section, the State agency shall ensure timely public notice of the proposed activities in accordance with the directives within §§ 930.61–930.62.

(c) The State agency shall concur with or object to the person's consistency certification in accordance with the directives within § 930.79, except that the applicable time period for purposes of concurrence by conclusive presumption shall be three months instead of six months.

(d) If the State agency issues a concurrence or is conclusively presumed to concur with the person's new consistency certification, the person will not be required to submit additional consistency certifications and supporting information for State agency review at the time Federal applications are actually filed for the Federal licenses and permits to which such concurrence applies.

(e) Unless the State agency indicates otherwise, copies of Federal license and permit applications for activities described in detail in an amended or new OCS plan which has received State agency concurrence shall be sent by the person to the State agency to allow the State agency to monitor the activities. Confidential and proprietary material within such applications may be deleted.

§ 930.85 Continuing State agency objections.

If the State agency objects to the consistency certification for an amended or new OCS plan, the prohibition in § 930.81 against Federal agency approval of licenses or permits for activities described in detail in such a plan applies, further Secretarial review pursuant to subpart H may take place, and the development of an additional amended or new OCS plan and consistency certification may be required pursuant to §§ 930.83–930.84.

§ 930.86 Failure to comply substantially with an approved OCS plan.

(a) The Department of the Interior and State agencies shall cooperate in their efforts to monitor Federally licensed and permitted activities described in detail OCS plans to make certain that such activities continue to conform to both Federal and State requirements.

(b) If a State agency claims that a person is failing substantially to comply with an approved OCS plan subject to the requirements of this Subpart, and such failure allegedly involves the conduct of activities affecting the coastal zone in a manner that is not consistent with the approved management program, the State agency shall transmit its claim to the U.S. Geological Survey supervisor for the area involved. Such claim shall include: (1) A description of the specific activity involved and the alleged lack of compliance with the OCS plan, and (2) a request for appropriate remedial action. A copy of the claim shall be sent to the person and the Assistant Administrator.

(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that the person is failing to comply substantially with the OCS plan, the governor or section 306(c)(5) State agency (see § 930.18) may file a written objection with the Secretary. If the Secretary finds that the person is failing to comply substantially with the OCS plan, the person shall submit an amended or new OCS plan along with a consistency certification and supporting information to the Secretary of the Interior or designee and to the State agency. Following such a finding by the Secretary, the person shall comply with the originally approved OCS plan, or with interim orders issued jointly by the Secretary and the U.S. Geological Survey, pending approval of the amended or new OCS plan. The directives within §§ 930.83–930.85 shall apply to further State agency review of the consistency certification for the amended or new plan.

(d) A person shall be found to have failed substantially to comply with an approved OCS plan if the State agency claims and the Secretary finds that one or more of the activities described in detail in the OCS plan which affects the coastal zone are being conducted or are having a coastal zone effect substantially different than originally described by the person in the plan or accompanying information and, as a result, the activities are no longer being conducted in a manner consistent with the State's management program. The Secretary may make a finding that a person has failed substantially to comply with an approved OCS plan only after providing a reasonable opportunity for the person and the Secretary of the Interior to review the State agency's objection and to submit comments for the Secretary's consideration.

Subpart F—Consistency for Federal Assistance to State and Local Governments

§ 930.90 Objectives.

The provisions of this subpart are provided to assure that Federal assistance to State and local governments for activities affecting the coastal zone is granted only when such activities are consistent with approved coastal zone managements programs.

(Comment. Statutory citation: Section 307(d):

"State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098) [which provides authority for the Office of Management and Budget Circular A–95 (41 FR 2052 (1976))]. Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program * * *."

Although the Coastal Energy Impact Program (CEIP) under Section 308 of the Act is not a form of Federal assistance under an "other Federal" program, it will be the policy of OCZM to subject the CEIP to the consistency requirements of this Subpart.)

§ 930.91 Federal assistance.

The term "Federal assistance" means assistance provided under a Federal program to an applicant agency through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other form of financial aid.

§ 930.92 Applicant agency.

The term "applicant agency" means any unit of State or local government, or any related public entity such as a special purpose district, which, following management program approval, submits an application for Federal assistance.

§ 930.93 OMB A–95 process.

The term "OMB A–95 process" describes the project notification and review procedures set forth in the Office of Management and Budget Circular A–95 for the evaluation, review and coordination of Federally assisted programs (41 FR 2052 (1976)).

§ 930.94 Guidance provided by the State agency.

(a) To assist A–95 State and areawide clearinghouses, State agencies should include within the management program a listing of specific types of Federal assistance programs subject to a

consistency review. Such a listing, and any amendments, will require prior 306(c)(5) state agency (see § 930.18) consultation with affected Federal agencies and approval by the Assistant Administrator.

(b) In the event the State agency chooses to review applications for Federal assistance activities outside of the coastal zone but likely to affect the coastal zone, the State agency must develop a Federal assistance provision within the management program generally describing the geographic area (e.g. coastal floodplains) within which Federal assistance activities will be subject to review. This provision, and any refinements, will require prior 306(c)(5) State agency consultation with affected Federal agencies and approval by the Assistant Administrator.

(c) The State agency shall provide copies of any Federal assistance list or geographic provision, and any refinements, to Federal agencies, units of State or local government empowered to undertake Federally assisted activities within the coastal zone or described geographic area, and to the A–95 State and areawide clearinghouses.

§ 930.95 OMB A–95 project notification and review.

(a) Pursuant to the OMB A–95 process, an applicant agency shall notify the appropriate State and areawide clearinghouses of its intent to apply for Federal assistance for an activity located in the coastal zone or the described geographic area.

(b) The applicant agency shall utilize the OMB A–95 process for every major funding phase of the Federal assistance activity which entails the consideration of new information not previously reviewed (e.g., planning and design data not reviewed in earlier project siting phase), or which results in substantial modifications to previously reviewed phases.

(c) The clearinghouses shall ensure that the State agency is afforded an opportunity to review a notification for an activity located in the coastal zone or the described geographic area to determine whether the activity is consistent with the management program.

§ 930.96 Consistency review.

(a) If pursuant to the OMB A–95 process, the State agency does not object to the proposed activity, the Federal agency may grant the Federal assistance to the applicant agency. Notwithstanding State agency consistency approval for the proposed project, the Federal agency may deny assistance to the applicant agency. Federal agencies should not delay processing applications pending receipt of a State agency approval or objection. In the event a Federal agency determines that an application will not be approved, it shall immediately notify the applicant agency and the State agency.

(b) If pursuant to the OMB A–95 process, the State agency objects to the proposed project, the clearinghouse shall notify the applicant agency, Federal agency and the Assistant Administrator of the objection.

(c) State agency objections must describe: (1) how the proposed project is inconsistent with specific elements of the management program, and (2) alternative measures (if they exist) which, if adopted by the applicant agency, would permit the proposed project to be conducted in a manner consistent with the management program.

(d) A State agency objection may be based upon a determination that the applicant agency has failed, following a written State agency request, to supply necessary information. If the State agency objects on the grounds of insufficient information, the objection must describe the nature of the information requested and the necessity of having such information to determine the consistency of the activity with the management program.

(e) State agency objections shall include a statement informing the applicant agency of a right of appeal to the Secretary on the grounds described in subpart H of this part.

§ 930.97 Federal assisting agency responsibility.

Following receipt of a State agency objection, the Federal agency shall not approve assistance for the activity except as provided in subpart H of this part.

§ 930.98 Federally assisted activities outside of the coastal zone or the described geographic area.

(a) State agencies should monitor proposed Federal assistance activities outside of the coastal zone or the described geographic area (e.g., by use of the OMB A–95 process, review of NEPA environmental impact statements, etc.) and shall immediately notify applicant agencies, Federal agencies, and the appropriate clearinghouse of proposed activities which can reasonably be expected to affect the coastal zone and which the State agency is reviewing for consistency with the management program. Notification shall also be sent by the State agency to the Assistant Administrator. State agencies must inform the clearinghouse and other parties of objections within the time period permitted under the OMB A–95 process, otherwise the State agency waives its right to object to the proposed activity.

(b) If within the permitted time period the State agency notifies the Federal agency of its objection to a proposed Federally assisted activity, the Federal agency shall not provide assistance to the applicant agency except as provided in Subpart H, unless the Assistant Administrator disapproves the State agency's decision to review the activity. The Assistant Administrator shall be guided by the provisions in § 930.54 (c) and (d).

§ 930.99 Availability of mediation for Federal assistance disputes.

In the event of a serious disagreement between a Federal and State agency regarding whether a Federal assistance activity is subject to consistency review, either party may request the Secretarial mediation services provided for in Subpart G of this Part. The existence of a serious disagreement will not relieve the Federal agency from the responsibility for withholding Federal assistance for the activity pending satisfaction of the requirements of this subpart, except in cases where the Assistant Administrator has disapproved a State agency decision to review an activity.

§ 930.100 Availability of mediation for previously reviewed activities.

(a) Federal and State agencies shall cooperate in their efforts to monitor Federally assisted activities in order to make certain that such activities continue to conform to both Federal and State requirements.

(b) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency objection to a Federally assisted activity which was (1) previously determined to be consistent with the State's management program, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, is no longer consistent with the State management program, or (2) previously determined not to be a project affecting the coastal zone, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than

originally proposed and, as a result the project affects the coastal zone in a manner inconsistent with the State's management program. The State agency's request must include supporting information and a proposal for recommended remedial action; a copy of the request must be sent to the applicant agency.

(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists with the Federal agency, either party may seek the Secretarial mediation services provided for in Subpart G of this Part.

Subpart G—Secretarial Mediation

§ 930.110 Objectives.

The purpose of this subpart is to describe mediation procedures which Federal and State agencies may use to attempt to resolve serious disagreements which arise during the administration of approved management programs.

(*Comment.* Statutory citation: Section 307(h):

"In case of serious disagreement between any Federal agency and coastal state * * *

"(2) in the administration of management programs approved under Section 306; the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.")

§ 930.111 Informal negotiations.

The availability of mediation does not preclude use by the parties of alternative means for resolving their disagreement. In the event a serious disagreement arises, the parties are strongly encouraged to make every effort to resolve the disagreement informally. OCZM shall be available to assist the parties in these efforts.

§ 930.112 Request for mediation.

(a) The Secretary or other head of a Federal agency, or the Governor or the section 306(c)(5) State agency (see § 930.18), may notify the Secretary in writing of the existence of a serious disagreement, and may request that the Secretary seek to mediate the serious disagreement. A copy of the written request must be sent to the agency with which the requesting agency disagrees, and to the Assistant Administrator.

(b) Within 15 days following receipt of a request for mediation the disagreeing agency shall transmit a written response to the Secretary, and to the agency requesting mediation, indicating whether it wishes to participate in the mediation process. If the disagreeing agency declines the offer to enter into mediation efforts, it must indicate the basis for its refusal in its response. Upon receipt of a refusal to participate in mediation efforts, the Secretary shall seek to persuade the disagreeing agency to reconsider its decision and enter into mediation efforts. If the disagreeing agencies do not all agree to participate, the Secretary will cease efforts to provide mediation assistance.

§ 930.113 Public hearings.

(a) If the parties agree to the mediation process, the Secretary shall appoint a hearing officer who shall schedule a hearing in the local area concerned. The hearing officer shall give the parties at least 30 days notice of the time and place set for the hearing and shall provide timely public notice of the hearing.

(b) At the time public notice is provided, the Federal and State agencies shall provide the public with convenient access to public data and information related to the serious disagreement.

(c) Hearings shall be informal and shall be conducted by the hearing officer with the objective of securing in a timely fashion information related to the disagreement. The Federal and State agencies, as well as other interested parties, may offer information at the hearing subject to the hearing officer's supervision as to the extent and manner of presentation. Unduly repetitious oral presentation may be excluded at the discretion of the hearing officer; in the event of such exclusion the party may provide the hearing officer with a written submission of the proposed oral presentation. Hearings will be recorded and the hearing officer shall provide transcripts and copies of written information offered at the hearing to the Federal and State agency parties. The public may inspect and copy the transcripts and written information provided to these agencies.

§ 930.114 Secretarial mediation efforts.

(a) Following the close of the hearing, the hearing officer shall transmit the hearing record to the Secretary. Upon receipt of the hearing record, the Secretary shall schedule a mediation conference to be attended by representatives from the Office of the Secretary, the disagreeing Federal and State agencies, and any other interested parties whose participation is deemed necessary by the Secretary. The Secretary shall provide the parties at least 10 days notice of the time and place set for the mediation conference.

(b) Secretarial mediation efforts shall last only so long as the Federal and State agencies agree to participate. The Secretary shall confer with the Executive Office of the President, as necessary, during the mediation process.

§ 930.115 Termination of mediation.

Mediation shall terminate (a) at any time the Federal and State agencies agree to a resolution of the serious disagreement, (b) if one of the agencies withdraws from mediation, (c) in the event the agencies fail to reach a resolution of the serious disagreement within 15 days following Secretarial conference efforts, and the agencies do not agree to extend mediation beyond that period, or (d) for other good cause.

§ 930.116 Judicial review.

The availability of the mediation services provided in this subpart is not intended expressly or implicitly to limit the parties' use of alternate forums to resolve disputes. Specifically, judicial review where otherwise available by law may be sought by any party to a serious disagreement without first having exhausted the mediation process provided for in this subpart.

Subpart H—Secretarial Review Related to the Objectives or Purposes of the Act and National Security Interests

§ 930.120 Objectives.

The provisions of this subpart provide procedures by which the Secretary may find that a Federal license or permit activity, including those described in detail in an OCS plan, or a Federal assistance activity, which is inconsistent with a management program, may be federally approved because the activity is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security.

(*Comment.* Statutory citations: Subsection 307(c)(3)(A):

"No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with objectives of this title or is otherwise necessary in the interest of national security."

Subsection 307(c)(3)(B):

"No Federal official or agency shall grant such person any license or permit for any activity described in detail in such [OCS] plan until such state or its designated agency

receives a copy of such certification and plan, together with any other necessary data and information, and until—

"(i) The State agency concurs;

"(ii) The State agency is conclusively presumed to concur; or

"(iii) The Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security."

Section 307(d):

"Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security."

§ 930.121 Consistent with the objectives or purposes of the act.

The term "consistent with the objectives or purposes of the Act" describes a Federal license or permit activity, or a Federal assistance activity which, although inconsistent with a State's management program, is found by the Secretary to be permissible because it satisfies the following four requirements:

(a) The activity furthers one or more of the competing national objectives or purposes contained in sections 302 or 303 of the Act,

(b) When performed separately or when its cumulative effects are considered, it will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest,

(c) The activity will not violate any requirements of the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended, and

(d) There is no reasonable alternative available (e.g., location design, etc.) which would permit the activity to be conducted in a manner consistent with the management program.

§ 930.122 Necessary in the interest of national security.

The term "necessary in the interest of national security" describes a Federal license or permit activity, or a Federal assistance activity which, although inconsistent with a State's management program, is found by the Secretary to be permissible because a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed. Secretarial review of national security issues shall be aided by information submitted by the Department of Defense or other interested Federal agencies. The views of such agencies, while not binding, shall be given considerable weight by the Secretary. The Secretary will seek information to determine whether the objected-to activity directly supports national defense or other essential national security objectives.

§ 930.123 Appellant.

The term "appellant" refers to an applicant, person or applicant agency submitting an appeal to the Secretary pursuant to the provisions of this subpart.

§ 930.124 Informal discussions.

In the event the State agency informs the applicant, person or applicant agency that it intends to object to the proposed activity, the parties should consult informally to attempt to resolve the matter in a manner which avoids the necessity of appealing the issue to the Secretary. OCZM shall be available to assist the parties in these discussions.

§ 930.125 Appeals to the Secretary.

(a) An appellant may file a notice of appeal with the Secretary with 30 days of the appellant's receipt of a State agency objection. The notice of appeal shall be accompanied by a statement in support of the appellant's position, along with supporting data and information. The appellant shall send a copy of the notice of appeal and accompanying documents to the Federal and State agencies involved.

(b) No extension of time will be permitted for the filing of a notice of appeal.

(c) The Secretary may approve a reasonable request for an extension of time to submit supporting information so long as the request is filed with the Secretary within the 30-day period. Normally, the Secretary shall limit an extension period to 15 days.

§ 930.126 Federal and State agency responses to appeals.

(a) Upon receipt of the notice of appeal and supporting information, the Federal and State agencies shall have 30 days to submit detailed comments to the Secretary. Copies of such comments shall be sent to the appellant and other agency within the same time period.

(b) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.127 Public notice; receipt of comments.

(a) The Secretary shall provide timely public notice of the appeal within 15 days of receipt of the notice. At a minimum, public notice shall be provided in the immediate area of the coastal zone which is likely to be affected by the proposed activity. At the time public notice is provided, the Federal and State agencies shall provide the public with convenient access to copies of the appellant's notice of appeal and accompanying public information, and to the public information in the agencies' detailed comments.

(b) Interested persons may submit comments to the Secretary within 30 days from the date of public notice, with copies provided to the appellant and to the Federal and State agencies within the same time period.

(c) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.128 Dismissal of appeals.

The Secretary may dismiss an appeal for good cause. Good cause shall include, but is not limited to:

(a) Failure of the appellant to submit a notice of appeal within the required 30-day period.

(b) Failure of the appellant to submit the supporting information within the required period or approved extension period;

(c) Secretarial receipt of a detailed comment from the Federal agency stating that the agency has disapproved the Federal license, permit or assistance application;

(d) Failure of the appellant to base the appeal on grounds that the proposed activity either (1) is consistent with the objectives or purposes of the Act or (2) is necessary in the interest of national security.

§ 930.129 Public hearings.

The Secretary may order a hearing independently or in reponse to a request. If a hearing is ordered by the Secretary it shall be guided by the procedures described within § 930.113.

§ 930.130 Secretarial review.

(a) In reviewing an appeal, the Secretary shall find that a proposed Federal license or permit activity, or a Federal assistance activity, is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, when the information submitted supports this conclusion.

(b) The Secretary shall make all reasonable efforts to complete consideration of an appeal within 90 days from the date of public notice.

(c) Following consideration of the appeal, the Secretary shall issue a decision in writing to the appellant and to the Federal and State agencies indicating whether the proposed activity is consistent with the objectives or purposes of the Act, or is necessary in

the interest of national security; the decision shall include the basis for such finding. The Secretary shall provide public notice of the decision.

(d) The decision of the Secretary shall constitute final agency action for the purposes of the Administrative Procedure Act.

§ 930.131 Federal agency responsibility.

(a) If the Secretary finds that the proposed activity is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, the Federal agency may approve the activity.

(b) If the Secretary does not make either of these findings, the Federal agency shall not approve the activity.

§ 930.132 Review initiated by the Secretary.

(a) The Secretary may choose to consider whether a Federal license or permit activity, or a Federal assistance activity, is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security. Secretarial review may be initiated either before or after the completion of State agency review. The Secretary's decision to review the activity may result from an independent concern regarding the activity or a request from interested parties. If the Secretary decides to initiate review, notification shall be sent to the applicant, person or applicant agency, and to the Federal and State agencies. The notice shall include a statement describing the reasons for the review and shall contain a request for submission of detailed comments to be submitted within 30 days from receipt of the notification. Copies of comments shall be exchanged among the parties.

(b) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.133 Public notice; receipt of comments; public hearings.

(a) Upon receipt of detailed comments from the parties, the Secretary shall provide public notice and request public comments in accordance with the provisions in § 930.127.

(b) The Secretary may order a hearing in accordance with the provisions in § 930.129.

§ 930.134 Secretarial review; Federal agency responsibility.

(a) Secretarial review shall be undertaken in accordance with the provisions in § 930.130.

(b) Federal agencies are responsible for adhering to the provisions in § 930.131 when deciding to approve or deny an application for an activity objected to by a State agency and independently reviewed by the Secretary.

Subpart I—Assistant Administrator Reporting and Continuing Review of Federal Actions Subject to the Federal Consistency Requirements

§ 930.140 Objectives.

The provisions of this subpart provide procedures to permit interested parties to notify the Assistant Administrator of Federal actions (a) believed to be inconsistent with an approved management program but which are not so found by the Federal or State reviewing agency, and (b) believed to have been incorrectly determined to be inconsistent with an approved management program. This subpart also provides for the reporting of any Federal actions found by the Assistant Administrator to be inconsistent with an approved management program and for the performance review of State implementation of the Federal consistency provisions of this part.

(Comment. Statutory citation: section 312: "The Secretary shall conduct a continuing review of * * * the performance of * * * states with respect to coastal zone management * * *." The performance review responsibility under section 312 of the Act has been delegated by the Secretary to the Assistant Administrator for Coastal Zone Management.

Subsection 316(a)(5): "The Secretary shall prepare and submit to the President for transmittal to the Congress * * * a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program * * *." The reporting responsibility under section 316 of the Act also has been delegated by the Secretary to the Assistant Administrator for Coastal Zone Management.)

§ 930.141 Notification of Federal actions believed to be inconsistent with approved management programs.

(a) Interested parties are invited to submit to the Assistant Administrator detailed comments related to the alleged inconsistency of Federal activities including development projects, Federal license or permit activities, including those described in detail in OCS plans, and Federal assistance activities which are subject to the requirements of this part, and which have not been found by a Federal agency or State agency to be inconsistent with an approved management program. Copies of such comments should be sent to relevant Federal and State agencies, and to the applicant, person or applicant agency as appropriate.

(b) Comments need not conform to any particular form, but should be specific, substantive and factual, and must describe how the Federal action is or would be inconsistent with an approved management program.

(c) Commentators are encouraged to recommend modifications or alternatives to the existing or proposed action which would enable it to be consistent with the management program.

(d) The Assistant Administrator shall assure that public information within such comments is made available for public inspection.

§ 930.142 Notification of Federal actions believed to have been incorrectly determined to be inconsistent with an approved management program.

(a) Interested parties are invited to submit to the Assistant Administrator detailed comments related to Federal license and permit activities, including those described in detail in OCS plans, and Federal assistance activities which are believed to have been incorrectly determined by a State agency to be inconsistent with an approved management program. Copies of such comments should be sent to the relevant Federal and State agencies, and to the applicant, person, or applicant agency as appropriate.

(b) Comments need not conform to any particular form, but should be specific, substantive, and factual, and must clearly describe the basis for the belief that the State agency has incorrectly objected to the Federal action on the grounds of its inconsistency with the management program.

(c) The Assistant Administrator shall assure that public information within such comments is made available for public inspection.

§ 930.143 Assistant Administrator reporting.

After considering the views of interested parties, the relevant Federal agency, State agency, and the applicant, person, or applicant agency, as appropriate, the Assistant Administrator shall determine whether the Federal action will be included in the annual report listing of inconsistent Federal actions.

§ 930.144 Assistant Administrator advisory statements.

Upon request, the Assistant Administrator may issue as advisory statement prior to the issuance of the annual report indicating whether a

Federal action will be listed within the annual report as being inconsistent with an approved management program.

§ 930.145 Review of the implementation of Federal consistency provisions.

As part of the responsibility to conduct a continuing review of approved management programs, the Assistant Administrator shall review the performance of each State's implementation of the Federal consistency provisions in this part. The Assistant Administrator shall use information received pursuant to this subpart to evaluate instances where a State agency is believed to have either failed to object to inconsistent Federal actions, or improperly objected to consistent Federal actions. This evaluation shall be incorporated within the Assistant Administrator's general efforts to ascertain instances where a State has not adhered to its approved management program and such lack of adherence is not justified.

(*Comment.* See 15 CFR 923.83 which describes defects in management program administration which may lead to termination and withdrawal of Federal funding and cessation of the operation of the Federal consistency provisions.)

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federal register

Monday
June 25, 1979

Part VI

Department of Health, Education, and Welfare

Office of Education

Indochina Refugee Children Assistance Program

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 122a]

Indochina Refugee Children Assistance Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commissioner of Education proposed revised regulations governing grants to State educational agencies (SEAs) to help local education agencies (LEAs) provide educational services to certain Indochinese refugee children. This program is authorized by the Indochina Refugee Children Assistant Act, as reauthorized and amended by the Education Amendments of 1978.

DATES: Comments must be received on or before August 24, 1979. Public meetings will be held in each of the ten regions on August 3, 1979. The time for these meetings is 9 a.m.–12 noon.

ADDRESSES: Comments should be addressed to Mr. James H. Lockhart, U.S. Office of Education, (Room 2189, FOB #6), 400 Maryland Avenue, SW., Washington, D.C. 20202.

The locations of the public meetings are—

Region I—Boston: Boston School Dept., Adminstration Building, Boston Committee Hearing Rm., 26 Court Street, Boston, Massachusetts.

Region II—New York: Hearing Room E, Room 2222, 26 Federal Plaza, New York, New York.

Region III—Philadelphia: University City Holiday Inn, 36th & Chestnut Street, Philadelphia, Pennsylvania.

Region IV—Atlanta: Regional Office Building, 101 Mariette Towers Bldg., Suite 2221, Atlanta, Georgia.

Region V—Chicago: Center for Urban Education, 160 West Wendell Street (1050 North Wells), Chicago, Illinois 60601.

Region VI—Dallas: William Travis Elementary School, 3001 McKinney Street, Dallas, Texas 75204.

Region VII—Kansas City: Federal Office Bldg., 601 East 12th Street, Room 140, Kansas City, Missouri.

Region VIII—Denver: George Washington High School, 655 South Monaco Street, Denver, Colorado.

Region IX—San Francisco: Federal Office Building, Room 209, 50 United Nations Plaza, San Francisco, California.

Region X—Seattle: Ingram High School, Little Theater, 1819 North 135th Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Lockhart (202) 245–3081.

FOR INFORMATION ON REGIONAL HEARINGS CONTACT: The appropriate Regional Commissioner for Educational Programs lsited below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.

Region II, New York, Dr. William D. Green, (212) 264–4370.

Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.

Region IV, Atlanta, Dr. William L. Lewis (404) 221–2063.

Region V, Chcago, Dr. Juliette Noone Lester, (312) 353–5215.

Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.

Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.

Region VIII, Denver, Dr. John Runkel, (303) 837–3544

Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.

Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

SUPPLEMENTARY INFORMATION: The Commissioner is required by law to publish regulations for programs authorized by Congress. Please note that the Congress has not appropriated funds to operate this program in Fiscal Year 1979, and the President's budget does not request funds for Fiscal Year 1980.

The Indochina Refugee Children Assistance Act provides grants to SEAs to help LEAs provide educational services to Vietnamese, Cambodian, and Laotian children admitted into the United States on or after January 1, 1977.

For each refugee child, aged 5 through 17, attending a public or nonpublic elementary and secondary schools within a State, the SEA may receive a maximum grant of $450 for subgrants to LEAs. Each SEA also may receive a maximum additional grant of 5 percent of its allotment for amounts expended for administration of the program.

The Indochina Refugee Children Assistance Act (Pub. L. 94–405) is amended significantly by the Education Amendments of 1978 (Pub. L. 95–561).

This Notice of Proposed Rulemaking includes a specific provision that Part 100b of this chapter (State-Administered Programs under the General Provisions for Office of Education Programs) also applies to this program, which is reauthorized for the period October 1, 1978 through September 30, 1981.

These proposed regulations reflect changes in the authorizing legislation as follows:

(a) Limit eligibility under the Act exclusively to Indochinese refugee children admitted into the United States on or after January 1, 1977.

(b) Require that SEAs and LEAs provide data and assurances to demonstrate that the costs of services provided under this program are a direct result of the presence of Indochinese refugee children in the schools.

(c) Set $450 as the maximum grant that an SEA may receive for each Indochinese refugee child aged 5 to 17 that is provided with public educational services within the State. The maximum is ratably reduced if appropriations are less than $450 for each child.

(d) Limit subgrants by SEAs to LEAs to a maximum of $675 for each eligible child served. Subgrants are ratably reduced to keep total awards within the amounts available.

(e) Require SEAs to distribute grant funds in proportion to the costs incurred to serve eligible children.

(f) Provide that for an eligible child who has been in the United States for less than two years, program funds can be used for *any* actual expenditures by an SEA or LEA that is directly related to the educational services provided to the child.

(g) Provide that for an eligible child who has been in the United States for two years or more, program funds can be used only for actual expenditures that are *in addition to* the average per pupil expenditure of the LEA during the preceding year.

The last two provisions are designed to encourage SEAs and LEAs to assume full responsibility for basic educational services for refugee children after the first two years the child is in the United States. Because of the burden imposed on SEAs and LEAs by refugee children whose parents do not immediately pay taxes or otherwise contribute financially to public school costs, the proposed regulations allow an initial two-year period of "tax relief" assistance. However, after two years, parents of Indochinese refugee children should be contributing to the finances of the schools that their children attend. For this reason, expenditures on behalf of children who have been here two years or more are considered to be "additional," as required by the Act, only if they are in addition to the LEA's average expenditure per pupil during the preceding school year.

Other provisions of this NPRM specify the type of expenditures the Commissioner generally allows, govern application requirements, SEA managerial responsibilities, involvement of nonpublic school children, and parent participation.

Invitation To Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, we need to get an idea of how many persons are interested

in speaking about these regulations. If you are interested in making oral comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education, who will schedule a time for your comments. Persons who do not notify the Regional Commissioner of their intention to make oral comments will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

We expect that comments on these proposed regulations will be second on the agenda of the public meeting, after the National Diffusion Network regulations.

Interested persons are also invited to submit written comments, suggestions, and recommendations regarding the proposed regulations. Comments, suggestions, and recommendations may be sent to the address given at the beginning of this document. All comments received on or before August 24, 1979 will be considered in the development of the final regulation.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 2189, FOB–6, 400 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

Dated: May 4, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Approved: June 17, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance No. 13.596, Indochina Refugee Children Assistance Act)

The Commissioner proposes to revise Part 122a of 45 CFR as follows:

PART 122a—THE INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT

Subpart A—General

Sec.

122a.1 A description of the Indochina Refugee Children Assistance Program.
122a.2 What regulations apply to the Indochina Refugee Children Assistance Program?
122a.3 What are the definitions that apply to this program?

Subpart B—How a State Applies for a Grant

122a.4 How does a State apply for funds?
122a.5 When does a State apply for funds?
122a.6 What is included in the annual program plan?
122a.7 Amending the annual program plan.
122a.8 Effective date of annual program plan.

Subpart C—How a Grant Is Made to a State

122a.9 Under what conditions does the Commissioner approve an annual program plan?
122a.10 What is the maximum grant for which a State is eligible?
122a.11 Procedures for disapproving a State application.
122a.12 The Commissioner grants administrative funds to an SEA.

Subpart D—How to Apply to the State for a Subgrant Under This Program

122a.13 Who is eligible for educational services under this program?
122a.14 Who is elgible to receive a subgrant under this program?
122a.15 What are the application requirements for subgrantees?

Subpart E—How Is a Subgrant Made to an LEA?

122a.16 Procedures for disapproving an LEA application.
122a.17 Amount of a subgrant.
122a.18 Ratable reductions by SEAs.

Subpart F—What Conditions Must Be Met by the State and Its Subgrantees?

122a.19 How are actual expenditures determined?
122a.20 What expenditures does the Commissioner consider to be additional?

Subpart G—What Are the Administrative Responsibilities of the State and Its Subgrantees?

122a.21 What are the State's responsibilities in administering the program?
122a.22 Who controls and supervises services provided under this program?
122a.23 When are costs allowable under the program?
122a.24 When may a SEA make a subgrant?
122a.25 When may a subgrant become effective?
122a.26 What restrictions are there on the use of these funds?
122a.27 What constitutes parent involvement in the program?

Subpart H—Compliance Procedures Used by the Commissioner

122a.28 Under what conditions does the Commissioner withhold funds?
122a.29 Under what circumstances does the Commissioner permit waivers of requirements for serving nonpublic school children?

(Title II, Pub. L. 94–405, as amended by Pub. L. 95–561, unless otherwise noted.)

Subpart A—General

§ 122a.1 A description of the Indochina refugee children assistance program.

The Indochina Refugee Children Assistance Program provides Federal financial assistance to States for educational services to Indochinese refugee children:

(a) Paroled into the United States on or after January 1, 1977; and

(b) Enrolled in elementary or secondary public and nonpublic schools of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Island, and the Northern Mariana Islands.

(Sections 201–203 of the Act)

§ 122a.2 What regulations apply to the Indochina refugee children assistance program?

Regulations that apply to the Indochina Refugee Children Assistance Program are—

(a) Except as otherwise provided in this part (122a), part 100 of this chapter;

(b) Except for section 100b.35(b), part 100b of this chapter; and

(c) This part (122a).

(Title II of the Act; 20 U.S.C. 1221e–3(a)(1); 1232c (a) and (b); 1232d; 31 U.S.C. 200; 42 U.S.C. 2000d)

§ 122a.3 What are the definitions that apply to this program?

(a) *Definitions specific to these regulations.*

As used in this part:

"Act" means the Indochina Refugee Children Assistance Act of 1976 (Pub. L. 94–405), as amended by section 1331 of the Education Amendments of 1978 (Pub. L. 95–561).

"Basic instructional services" means those instructional services regularly provided by a local educational agency (LEA) to non-refugee children. These services may include those provided by regular personnel and the acquisition of regularly provided books and other instructional materials.

(Sections 103, 203 of the Act)

"Child" means any child who is within the age limits for which the applicable State is required or permitted to provide free public elementary and secondary school education in kindergarten through grade 12.

(Sections 203, 205 of the Act)

"Indochinese refugee children" means Vietnamese, Cambodian, and Laotian children who are—

(a) Refugees within the meaning given that term in section 3 of the Indochina

Migration and Refugee Assistance Act of 1975; and

(b) Who are paroled into the United States by the Attorney General under section 212(d)(5) of the Immigration and Naturalization Act on or after January 1, 1977.

(Section 201(b)(3) of the Act)

"Parent" means a natural or adoptive parent, legal guardian, or other person having primary responsibility for an eligible Indochinese refugee child.

(20 U.S.C. 1231d)

"Supplementary educational services" means services directly related to the educational needs of eligible children that are in addition to the basic instructional services provided by an LEA to non-eligible children of similar age. Supplementary educational services focus on, but are not limited to, English language instruction in such forms as English as a second language, English for speakers of other languages or bilingual education.

(Section 103(a) of the Act)

(b) *Definitions found elsewhere that apply to this program.*

The following terms, as used in this part, have the meaning given to them in section 201(b) of the Act:

Commissioner
Elementary school
Local educational agency
Secondary school
State
State educational agency
Elementary or secondary nonpublic schools

(Section 201(b) of the Act)

Subpart B—How a State Applies for a Grant

§ 122a.4 How does a State apply for funds?

A State educational agency (SEA) wishing to participate in this program shall submit to the Commission—

(a) A general application, as required by Section 434(b)(1)(A) of the General Education Provisions Act (GEPA).

(b) An annual program plan, as required by Section 434(b)(1)(A) of the GEPA and by § 100b.18 of this chapter.

(20 U.S.C. 1232c(b)(1)(A))

§ 122a.5 When does a State apply for funds?

(a) The Commissioner publishes a deadline in the **Federal Register** for submittal of SEA applications.

(b) An SEA wishing to apply for funds under this program shall submit the documents required by § 122a.4 to the Commissioner no later than the deadline published by the Commissioner.

(Section 205 of the Act; 20 U.S.C. 1221e–3(a))

§ 122a.6 What is included in the annual program plan?

(a) The annual program plan submitted by an SEA shall fulfill all requirements of—

(1) Section 205 of the Act;

(2) Section 434(b)(1)(B) of the GEPA; and

(3) Section 100b.18 of this chapter.

(b) The annual program plan also shall describe procedures the SEA will use for approving LEA applications and for the allocation of available funds among participating LEAs within the State. The allocation procedures shall provide for—

(1) Differential payments to LEAs with differing actual costs for serving eligible children; and

(2) Proportionately distributing funds between two or more LEAs within the State that provide educational services to the same eligible children during a school year.

(Section 205 of the Act; 20 U.S.C. 1232c(b)(1)(A))

§ 122a.7 Amending the annual program plan.

A State shall amend the annual program plan if required under terms of § 100b.28 of this chapter.

(20 U.S.C. 1221e–3(a)(1))

§ 122a.8 Effective date of annual program plan.

(a) The Commissioner establishes the effective date of a State's annual program plan to be October 1 of the fiscal year for which the plan is submitted.

(b) The effective date of the annual program plan is the earliest date on which costs may be paid with funds provided under this program.

(Section 201(a) of the Act; 20 U.S.C. 1221e–3(a)(1); 1232c(a)(1))

Subpart C—How a Grant is Made to a State

§ 122a.9 Under what conditions does the Commissioner approve an annual program plan?

The Commissioner approves each annual program plan that the Commissioner determines satisfies the requirements of the Act, the regulations of this part, and the applicable regulations of parts 100 and 100b of this chapter.

(Section 205(b) of the Act; 20 U.S.C. 1221e–3(a)(1))

§ 122a.10 What is the maximum grant for which a State is eligible?

(a) A State is eligible for a maximum grant equal to $450 multiplied by the number of eligible children 5 to 17 years of age provided public or nonpublic educational services within the State, as counted and reported to the Commissioner in accordance with an annual Notice that the Commissioner publishes in the **Federal Register.**

(b) If funds appropriated are not adequate to provide $450 for each eligible child served, the Commissioner ratably reduces the amount for which applicant SEAs are eligible to the extent necessary to keep total grants within the limits of the funds appropriated and available.

(Sections 202(b), 204 of the Act)

§ 122a.11 Procedures for disapproving a State application.

The Commissioner does not finally disapprove an SEA application without first notifying the SEA of the reasons for the proposed disapproval and providing the SEA with a reasonable opportunity for a hearing on the record.

(Section 205(b) of the Act)

§ 122a.12 The Commissioner grants administrative funds to an SEA.

Subject to the availability of funds appropriated for this purpose, the Commissioner pays each SEA an additional amount equal to the amount expended by it for the proper and efficient administration of its functions under the program. However, the total of these payments may not exceed five percent of the amount that an SEA receives for the grant period based on the counting and reporting required under terms of § 122a.10.

(Section 206(b) of the Act)

Subpart D—How To Apply to the State for a Subgrant Under This Program

§ 122a.13 Who is eligible for educational services under this program?

Indochinese refugee children who are enrolled in a public or nonpublic elementary or secondary school are eligible for educational services supported with Federal funds provided under this program.

(Section 103, 203, 205 of the Act)

§ 122a.14 Who is eligible to receive a subgrant under this program?

Any LEA or group of two or more LEAs within a State is eligible to receive a subgrant under this program if the LEA or group of LEAs provides public educational services to one or more eligible Indochinese refugee children.

(Sections 205(a)(1), (3), (6) of the Act)

122a.15 What are the application requirements for subgrantees?

(a) An LEA or a group of LEAs that desires to receive a subgrant under this program shall submit and application to the SEA in the form and manner prescribed by the SEA.

(b) Each LEA application shall, as a minimum, comply with the provisions of section 427, GEPA, regarding parent involvement.

(Section 205(a)(4) of the Act; 20 U.S.C. 1231d)

Subpart E—How Is a Subgrant Made to an LEA?

§ 122a.16 Procedures for disapproving an LEA application.

The SEA shall not finally disapprove an LEA application for funds under this program, either in whole or in part, without first providing the LEA with a reasonable opportunity for a hearing on the record.

(Section 205(a)(4) of the Act)

§ 122a.17 Amount of a subgrant.

The SEA shall limit each grant to an LEA to the lesser of:

(a) The actual additional expenditures for providing authorized services to eligible children; or

(b) An amount for each eligible child served that does not exceed 150 percent of the amount granted to the SEA for each child counted and reported under § 122a.10.

(Sections 103, 203 of the Act)

§ 122a.18 Ratable reductions by SEA's.

The SEA shall ratably reduce the average amount per eligible child for which each LEA is eligible under § 122a.17 to the extent necessary to keep total subgrants within the State to the amount of the grant made to the SEA by the Commissioner.

(Section 202(b) of the Act)

Subpart F—What Conditions Must Be Met by the State and Its Subgrantees?

§ 122a.19 How are actual expenditures determined?

(a) The Commissioner considers actual expenditures allowed by the Act to—

(1) Be limited to the cost of educational services that an LEA or SEA provides either directly or by contract; and

(2) Be only those costs that would not have been incurred except for the presence of Indochinese refugee children.

(b) Generally, these expenditures include—

(1) Personnel costs necessary to meet special educational needs resulting from the presence of Indochinese refugee children;

(2) Personnel costs necessary to keep regular educational services at normal or average levels established by either existing practice or formal policy;

(3) Instructional materials and supplies necessary to meet special needs of Indochinese refugee children;

(4) Instructional materials and supplies necessary to permit participation by Indochinese refugee children in regular school programs; and

(5) Inservice training of personnel who provide either special or regular instructional services for Indochinese refugee children.

(Sections 103, 203 of the Act)

§ 122a.20 What expenditures does the Commissioner consider to be additional?

To help each participating LEA provide educational services for eligible children, the Commissioner prescribes the following criteria for determining what expenditures are additional within the intent of the Act:

(a) If an eligible child has been in the United States less than two years on the date of the annual child count required under § 122a.10, the Commissioner considers actual expenditures to be additional if—

(1) They are made by the applicant agency in accordance with section 103 of the Act; and

(2) They are directly related to the education of the child.

(b) If an eligible child has been in the United States two or more years on the date of the annual child count, the Commissioner considers actual expenditures on behalf of the child to be additional if they meet the conditions in paragraph (a) and—

(1) The expenditures are in addition to the LEA's average per pupil expenditure of non-Federal funds during the preceding fiscal year.

(Sections 103, 203 of the Act)

Subpart G—What Are the Administrative Responsibilities of the State and Its Subgrantees?

§ 122a.21 What are the State's responsibilities in administering the program?

An SEA receiving funds under this program is responsible for—

(a) Compliance with its assurances to the Commissioner;

(b) The review and approval of its LEA applications; and

(c) Monitoring the performance of LEAs to which it has awarded subgrants under this program.

(Sections 205(a), 205(b) of the Act; 20 U.S.C. 1221e-3(a))

§ 122a.22 Who controls and supervises services provided under this program?

Grantees and subgrantees shall be responsible for maintaining public supervision and control over funds provided under this program and over services or materials acquired with those funds.

(Section 205(a)(1), (6) of the Act; 20 U.S.C. 1221e-3(a))

§ 122a.23 When are costs allowable under the program?

(a) SEAs and LEAs shall use funds provided under this program for costs incurred only on or after October 1, 1978, to provide educational services to eligible Indochinese refugee children and inservice training for instructional personnel, as authorized in section 103 of the Act. These costs include only actual additional expenditures incurred for providing educational services.

(Sections 103, 201(a) of the Act)

§ 122a.24 When may an SEA make a subgrant?

An SEA shall make a subgrant to an LEA only—

(a) On or after the date on which the SEA application to the Commissioner is effective;

(b) After the LEA presents evidence that it conducts an appropriate assessment of the educational needs of eligible children that is subsequently used as a basis for instruction; and

(c) If all the requirements of the Act and applicable regulations are met.

(Sections 203, 205(a) of the Act; 20 U.S.C. 1221e-3(a)(1))

§ 122a.25 When may a subgrant become effective?

(a) An SEA may make a subgrant to an LEA effective on the later of—

(1) The first day that the SEA application to the Commissioner is effective; or

(2) The first day that any eligible Indochinese refugee child received public educational services under the supervision of the applicant LEA.

(b) No subgrant may be made effective before October 1, 1978.

(Sections 201(a), 203, 205 of the Act; 20 U.S.C. 1221e-3(a)(1))

§ 122a.26 What restrictions are there on the use of these funds?

(a) Grantees and subgrantees shall not use funds provided under this program for—

(1) Programs, services, and expenditures that are not authorized under section 103 of the Act;

(2) Overhead costs, construction costs, acquisition or rental of space, or transportation costs;

(3) Basic educational services provided for eligible children by nonpublic schools.

(4) Salaries for teachers or other employees of nonpublic schools, except for authorized educational services performed outside their regular hours of duty with nonpublic schools and under the supervision and control of a public agency; or

(5) The use, acquisition or installation on nonpublic school premises of equipment that is not mobile or portable.

(Sections 103, 205(a)(b) of the Act; Lemon vs. Kurtzman 403 U.S. 602 (1971))

§ 122a.27 What constitutes parent involvement in the program?

(a) This section is effective with respect to funds obligated under this program after September 30, 1979.

(b) Each SEA shall take appropriate action to insure that parents of eligible children are effectively involved in the planning, implementation, and evaluation of LEA services provided or assisted under this program.

(c) If an LEA receives funds under this program for 100 or more eligible children and the eligible children constitute at least one percent of the LEA's student enrollment, the LEA shall establish a districtwide parent advisory council.

(d) If an LEA receives funds under this program for fewer than 100 eligible children, the LEA shall actively solicit consultation with parents and encourage their participation in existing parent advisory councils or similar organizations.

(e) Each participating LEA shall establish policies and procedures to insure adequate dissemination of program plans and evaluations to parents of eligible children and to the general public.

(20 U.S.C. 1231d)

Subpart H—Compliance Procedures Used by the Commissioner

§ 122a.28 Under what conditions does the Commissioner withhold funds?

Subject to the requirements of section 207 of the Act, the Commissioner may withhold payments under this part to an SEA if the Commissioner, after notice and hearing, finds that there has been a failure to meet the requirements of the Act.

(Section 207 of the Act)

§ 122a.29 Under what circumstances does the Commissioner permit waivers of requirements for serving nonpublic school children?

(a)(1) If a State is prohibited by law from providing public educational services to eligible Indochinese refugee children enrolled in nonpublic elementary or secondary schools, the Commissioner—

(i) Waives this requirement; and

(ii) Arranges for services to affected eligible children by contracting with organizations or individuals within the State qualified to provide educational service in accordance with the Act and this part.

(2) For the purpose of determining if the conditions described in subparagraph (1) exist in the State, the Commissioner requires the SEA to furnish an opinion of the Attorney General of the State.

(b) If the Commissioner arranges for services to eligible children attending nonpublic schools, the Commissioner reduces the grant to the SEA by the amount of funds for which the SEA would have been eligible on behalf of those children.

(c) Even if an SEA is prohibited by law from providing public educational services for children enrolled in nonpublic elementary and secondary schools, the SEA shall identify and separately enumerate these children in the report required under § 122a.10.

(Section 206(c) of the Act)

Organizations and Individuals To Be Sent Special Request for Comments

Dao Thi Hoi, Ed. D. Chairperson, Education and Culture Division, Vietnamese Community Center, 1501 N. Lincoln Street, Arlington, Virginia 22201.

Asian American Legal Defense and Education Fund, 43 Canal Street, New York, New York 10002.

Pacific Asian Coalition, 1760 The Alameda, Suite 210, San Jose, California 85126.

Japanese American Citizens League, 22 Peace Plaza, San Francisco, California 94115.

A.P.P.L.E. Inc., P.O. Box 1914, Des Moines, Iowa 50306.

Center for Southeast Asian Refugee Resettlement, 944 Market Street, 8th Floor, San Francisco, California 94102.

Indochinese Service Center, 4379 30th Street, San Diego, California 92104.

Governor's Information Center for Asian Assistance, 160 North Lasalle Street, Rm. 2006, Chicago, Illinois 60601.

Ms. Gloria Frank, Teacher Specialist, ESOL Bilingual Office, Montgomery County Public Schools, 850 North Hungerford Drive, Rockville, Maryland 20852.

Indo-American Friendship Society, 2210 Michener Street, Philadelphia, Pennsylvania 19115.

Asian American Council of Greater Philadelphia, 1016 Race Street, Philadelphia, Pennsylvania 19107.

National Association for Asian American and Pacific Education, 708 S. G Street, Tacoma, Washington 20005.

Organization of Chinese Americans, 1443 Rhode Island Avenue, NW., Washington, D.C. 20005.

Executive Director, Washington State Commission on Asian American Affairs, 1417 Columbia, Olympia, Washington 98504.

Union of Pan Asian Communities, 2459 Market Street, San Diego, California 92102.

International Institute of L.A., 435 S. Boyle Ave., East Los Angeles, California 90033.

Mrs. Charlotte Brill, Coordinator, ESOL Office, 5201 Baltimore Lane, Lanham, Maryland 20801.

Dr. Maria Djouadi, ESL, Secondary Coordinator, Arlington County Public Schools, 816 S. Walter Reed Drive, Arlington, Virginia 22205.

Mr. Seymour Stiff, Curriculum Specialist, Arlington County Public Schools, 125 Old S. Glebe Road, Arlington, Virginia 22204.

Dr. Donald Dearborn, Director Elementary Instruction, 418 N. Washington Street, Alexandria, Virginia 22313.

Nguyen Ngoc Bich, Vietnamese Community Center, 1501 N. Lincoln Street, Arlington, Virginia 22201.

Mr. Pho Ba Long, National Indochinese Clearinghouse Center for Applied Linguistics, 1611 N. Kent Street, Arlington, Virginia 22209.

Vietnamese Community Center, 1501 N. Lincoln Street, Arlington, Virginia 22201.

Dr. Ton That Niem, 7334 Lee Highway, Falls Church, Virginia.

Venerable Dr. Thich Giac Duc, Washington Area Buddhist Church, 5333 16th Street, NW., Washington, D.C. 20011.

Mr. Le Phuoc Nguyen, 2772 Blocker Place, Falls Church, VA 22043.

Dr. Nguyen Manh Hung, George Mason University, 4400 University Drive, Fairfax, VA.

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federal register

Monday
June 25, 1979

Part VII

Department of Health, Education, and Welfare

Office of Education

Biomedical Sciences Program

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 161]

Biomedical Sciences Program

AGENCY: Office of Education, HEW.

ACTION: Proposed Regulations.

SUMMARY: The Commissioner proposes regulations for the Biomedical Sciences Program required by the Education Amendments of 1978. These proposed regulations govern the award of grants to institutions of higher education for projects designed to motivate and educate secondary school youth from economically disadvantaged backgrounds to prepare for and enter into biomedical professions.

DATES: All written comments on the proposed regulations must be received on or before August 24, 1979. Public meetings will be held in each of the ten regions on August 1, 1979. The time for these meetings is 9 a.m.–12 noon.

ADDRESSES: Written comments should be addressed to Dr. Melvin E. Engelhardt, U.S. Office of Education, 400 Maryland Avenue, SW., (Room 3012, ROB No. 3), Washington, D.C. 20202.

The locations of the public meetings are:

Region I—Boston: Boston School Dept., Adminstration Building, Boston Committee Hearing Rm., 26 Court Street, Boston, Massachusetts.

Region II—New York: Hearing Room E, Room 2222, 26 Federal Plaza, New York, New York.

Region III—Philadelphia: University City Holiday Inn, 36th & Chestnut Streets, Philadelphia, Pennsylvania.

Region IV—Atlanta: Regional Office Building, 101 Mariette Towers Bldg., Suite 2221, Atlanta, Georgia.

Region V—Chicago: Center for Urban Education, 160 West Wendell Street (1050 North Wells), Chicago, Illinois 60601.

Region VI—Dallas: William Travis Elementary School, 3001 McKinney Street, Dallas, Texas 75204.

Region VII—Kansas City: Federal Office Bldg., 601 East 12th Street, Room 140, Kansas City, Missouri.

Region VIII—Denver: George Washington High School, 655 South Monaco Street, Denver, Colorado.

Region IX—San Francisco: Federal Office Building, Room 209, 50 United Nations Plaza, San Francisco, California.

Region X—Seattle: Ingram High School, Little Theater, 1819 North 135th Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Dr. Melvin E. Engelhardt, (202) 245–1990.

FOR INFORMATION ON REGIONAL HEARINGS CONTACT: The appropriate Regional Commissioner for Education Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.

Region II, New York, Dr. William D. Green, (212) 264–4370.

Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.

Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063.

Region V, Chicago, Ms. Juliette Noone Lester, (312) 353–5215.

Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.

Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.

Region VIII, Denver, Dr. John Runkel, (303) 837–3544

Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.

Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

SUPPLEMENTARY INFORMATION:

A. Purpose

The primary purpose of the program is to educate and motivate talented, economically disadvantaged youth to prepare them for admission into post-secondary schools leading to careers in the biomedical sciences. A goal of the program is to encourage these youth, on completion of training, to practice in communities that are underserved by biomedical professionals.

B. Summary of Major Provisions

These proposed regulations state the purpose of the Biomedical Sciences Program, define pertinent terms, and describe the nature of projects for which the Commissioner makes grants to institutions of higher education. The proposed regulations outline the methods and procedures for applying for a grant and describe the criteria to be used in reviewing applications.

The following statements explain the reasoning or the circumstances that led to the proposal of specific regulations. The Commissioner invites comments on these matters.

§ 161l.3 *Definitions.* The Act requires the Commissioner to determine whether the secondary school system with which the project is to be carried out has a relatively high proportion of students from an economically disadvantaged background. These proposed regulations provide a definition of the term "secondary school system which has a relatively high proportion of students from an economically disadvantaged background." The Commissioner uses as the basis for this definition the provisions of title I of the Elementary and Secondary Education Act for special project grants to local educational agencies (LEAs) that have especially high concentrations of children from low-income families.

Although the definition of an economically disadvantaged student under the Biomedical Sciences Program—a student from a family whose income is 50 percent or less of the median income of families of comparable size—is somewhat different from that of low-income children for purposes of title I, the two definitions are sufficiently close so that title I data can be used in determining eligible areas for the Biomedical Sciences Program.

A "secondary school system which has a relatively high proportion of students from an economically disadvantaged background" is defined in these proposed regulations as a secondary school or schools in which at least 5,000 or 20 percent of the students who reside in the area served by the school or schools are counted under title I of ESEA as being from low-income families.

§ 161l.4 *Eligible applicants.* These proposed regulations permit any institution of higher education to apply. They also permit joint applications. Joint applications may be necessary to include the mandated minimum number of target students and also make it possible to have comprehensive rural projects.

§ 161l.5 *Eligible participants.* The Act defines the eligible student participants but does not prescribe the method of selection. These proposed regulations ensure that student candidates in each project area have an equal opportunity to apply and that the selection process is fair for all and known in advance. The Commissioner publishes census data on the median national income to help applicants determine the financial eligibility of students.

The proposed regulations allow talented, non-low income secondary school students to participate in the project. However, the applicant cannot receive or use project funds for any additional expense incurred as a result of providing instruction for these students.

§ 161l.20 *Nature of projects.* While the applicant must be an institution of higher education, the project involves students enrolled in secondary schools. The institution and the LEA(s) that are participating in the project therefore must work together closely if the project is to serve the students adequately.

These proposed regulations require that an applicant, in formulating a project, consult with local school officials and teachers of the public and private schools involved, with parents of prospective participants, and with other

interested parties. These proposed regulations also required a formal agreement between the applicant institution and the LEA(s) including the appropriate public and private schools.

These regulations propose that an institution of higher education be allowed to submit only one application in any one year. If it wishes to conduct another project with a new group of students the next year, it must submit another application, but that application must compete with those of other institutions. An institution may receive a maximum of four projects.

§ 161*l*.21 *Duration of projects.* The Act specifies that projects be designed for a five-year period. Funds are granted annually.

§ 161*l*.32 *State review of applications.* These proposed regulations require that the applicant institution allow the State educational agency (SEA)—and, if different, the authorized agency for higher education in that State—the opportunity to review and comment on the application before it is submitted to the Commissioner. The SEA and the higher education authority can be helpful in providing information relative to the eligibility of student participants: e.g., ESEA title I eligible data. They may also be able to suggest resource persons and facilities that may be available to the project, help avoid duplicative effort, and assist with certain problems: e.g., those related to rural or other priority areas. Neither the SEA nor the higher education authority may disapprove an application.

§ 161*l*.42 *General criteria* and § 161*l*.43 *Additional criteria specific to projects in the biomedical sciences.* To assure selection of projects of highest quality, the proposed regulations include the five selection criteria required by Education Division General Administrative Regulations (EDGAR). In addition, three criteria specific to the Biomedical Sciences Program are proposed.

§ 161*l*.44 *Special considerations.* For the selection of projects among those that are otherwise equal in quality, the proposed regulations give priority to programs not previously offered, give special consideration to projects located in health manpower shortage areas and in rural areas, and seek to achieve a diversity of geographic settings (section 383(b)).

§ 161*l*.50 *Allowable costs.* The Act allows student participants to receive a modest stipend up to $30 per month for full participation during the academic year. The Act also requires the Commissioner to determine allowable costs for summer sessions. The Commissioner proposes to pay students a stipend of no more than the prevailing hourly minimum wage for participation in the summer program. Students may not receive additional pay from project funds for summer work in laboratories, hospitals, community clinics, or similar settings.

Because students will receive all of their instruction and perform other activities after regular school hours, these proposed regulations allow stipends for educational personnel for this extra work.

The Act stresses the importance of involving parents of student participants in meaningful ways so that they will encourage and assist their children in pursuing careers in the biomedical sciences. The proposed regulations allow the grantee to use project funds for the costs of meals, transportation, or other reasonable expenses related to parent participation in special events connected with the project.

Funding strategy. For each year of the project, the grantee will receive a maximum of $2,400 for each talented, economically disadvantaged student who participates in the project. The total grant must cover all costs during the academic year, including student stipends. An additional amount, to be negotiated by the Commissioner and the grantee, will be granted for a summer program for each year of the project. The Act also provides that five percent of each year's appropriation is to be used to evaluate the projects.

Invitation To Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, we need to get an idea of how many persons are interested in speaking about these regulations. If you are interested in making oral comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education, who will schedule a time for your comments. Persons who do not notify the Regional Commissioner of their intention to make oral comments will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

We expect that comments on these proposed regulations will be first on the agenda of the public meeting.

In addition, interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before August 24, 1979 will be considered in the development of the final regulations.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 3012, ROB–3, 7th & D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

C. Education Division General Administrative Regulations

These proposed regulations do not contain certain types of requirements. Those requirements are covered in EDGAR which will replace the General Provisions for Office of Education Programs Regulations. EDGAR was published as a notice of proposed rulemaking (NPRM) on May 4, 1979.

Anyone wanting to comment on those requirements should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to this program will now be among those covered generally in EDGAR:

How to apply for a grant.

How grants are made.

Certain conditions that must be met by a grantee.

The administrative responsibilities of a grantee.

The procedures the Office of Education uses to ensure compliance.

D. Citations of Legal Authority

As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of statutory authority for each section of the proposed regulations has been placed in parentheses on the line following the text of each section.

These proposed regulations are issued under the authority of Title III, Part L of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561).

Dated: May 30, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Approved: June 17, 1979.

Hale Champion,

Acting Secretary of Health, Education and Welfare.

(Catalog of Federal Domestic Assistance Number: 13 Biomedical Sciences Program not assigned yet).

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new part 161l to read as follows:

PART 161L—BIOMEDICAL SCIENCES

Subpart A—General

Sec.

161l.1 The Biomedical Sciences Program.
161l.2 Regulations that apply to the Biomedical Sciences Program.
161l.3 Definitions.
161l.4 Eligible applicants.
161l.5 Eligible participants.
161l.6 Selection of students.

Subpart B—Projects the Office or Education Assists Under This Program

161l.20 Nature of projects.
161l.21 Duration of projects.
161l.22 Conditions required to continue projects.
161l.23 Information required to continue projects.

Subpart C—How To Apply for a Grant

161l.30 Procedures for applying.
161l.31 Limitation on the number of applications.
161l.32 State review of applications.

Subpart D—How a Grant Is Made

161l.40 Review, selection, and approval of applications.
161l.41 Criteria for approval of applications; general information.
161l.42 General criteria.
161l.43 Additional criteria specific to projects in the biomedical sciences.
161l.44 Special considerations.

Subpart E—Conditions That Must Be Met by a Grantee

161l.50 Allowable costs.
161l.51 Non-allowable costs.
161l.52 Coordination among the projects.

Authority: Title III, Part L of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978, (Pub. L. 95–561).

Subpart A—General

§ 161l.1 The biomedical sciences program.

The Commissioner awards grants to institutions of higher education to—

(a) Motivate and educate secondary school students from an economically disadvantaged background to prepare for and enter into careers in the biomedical sciences;

(b) Assist these students to develop the skills and competencies essential to success in these careers and to overcome disadvantages resulting from foreign language barriers;

(c) Instill in these students awareness and concern for the health of their families and communities; and

(d) Introduce these students to the opportunities and challenges of serving in communities that have a need for persons trained in the biomedical sciences.

(20 U.S.C. 3051)

§ 161l.2 Regulations that apply to the biomedical sciences program.

The following regulations apply to the Biomedical Sciences Program:

(a) The Education Division General Administrative Regulations (EDGAR) in—

(1) Part 100a (Direct Grant Programs), except for § 100a.250, § 100a.251, § 100a.253, and § 100a.254; and

(2) Part 100c (Definitions).

(b) The regulations in this part 161l.

(20 U.S.C. 1221e–3(a)(1))

§ 161l.3 Definitions.

(a) *Definitions in the Act.* Terms defined in the Act (section 382) are:

Applicant
Biomedical science
Full participant
Project
Public secondary school system
School of biomedical science
Student from an economically disadvantaged background
Talented student from an economically disadvantaged background
Target student.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in part 100c:

Application
Award
Budget
Budget period
Commissioner
Equipment
Fiscal year
Grant period
Local educational agency (LEA)
Project period
Public
Secondary school
State educational agency (SEA)
Supplies

(c) *Program Definitions.* As used in this part:

"Act" means Title III, Part A and Part L, of the Education Amendment of 1978 (Pub. L. 95–561).

"Biomedical sciences project" means a five-year plan of activities that takes only the original group of students through biomedical science educational experience during their secondary school years in preparation for post secondary school study.

"Institution of higher education" means an educational institution in any State which meets the requirements set forth in section 1201(a) of the Higher Education Act of 1965 as amended.

"Secondary school system which has a relatively high proportion of students from an economically disadvantaged background" means a secondary school or schools in which at least 5,000 or 20 percent of the secondary school students who reside in the area served by the school or schools are counted as being from low income families for purposes of title I of the Elementary and Secondary Education Act.

"Private, nonprofit, secondary school system" means a nonprofit secondary school or group of secondary schools operated by an agency, organization, or institution not under public control which is recognized or certified by the SEA as meeting State criteria for secondary schools.

"Rural area" means an area that is not included within a Standard Metropolitan Area (as defined by the U.S. Bureau of Census). A rural area cannot contain any city, town, borough, village, or other subcounty political unit with a population over 2,500.

(20 U.S.C. 3052, 3054(a)(2)(A), and 2942(b))

§ 161l.4 Eligible applicants.

(a) The Commissioner awards grants to institutions of higher education on a competitive basis under selection procedures and criteria of this part and of EDGAR.

(b) Two or more institutions of higher education may join in applying if a joint project may serve better the purpose of the program, as in rural areas. One of the institutions shall be designated as the applicant. All applications for joint projects are subject to the provisions of EDGAR.

(20 U.S.C. 3053)

§ 161l.5 Eligible participants.

(a) An institution of higher education may enroll in an approved project only students who—

(1) Are talented as determined by criteria stated in § 161l.6;

(2) Are from an economically disadvantaged background, as defined in the Act (section 382(7)); and

(3) Attend school in the secondary school system reside in the area served by that school system, or attend a private school in that area.

(b) In determining whether a student comes from an economically disadvantaged background, and therefore is eligible to participate, an applicant or an LEA may request the parents to provide a statement regarding their annual income.

(c) An institution of higher education may enroll in a project students who are in the ninth or tenth grade during the

first or second year of the project. It may also enroll students who are in the eleventh or twelfth grade who have participated satisfactorily in the project or in a program comparable to the project.

(d) The project may include among its students who are considered to come from a comparable program only those students who—

(1) Transferred to the project school from another school having a similar project in which the student participated satisfactorily for a full academic year; or

(2) Participated satisfactorily during an academic year for at least 100 hours—but who are no longer enrolled—in a program having similar objectives and providing similar experiences as the Biomedical Sciences Program. Certain Upward Bound and Talent Search projects may qualify if they provide similar activities and meet similar objectives.

(e) The project may also include other talented secondary school students who do not qualify as economically disadvantaged students as defined in the Act (section 382(7)). A grantee may not receive project funds for these students.

(f) The project may enroll in its summer session only students who were full participants during the previous academic year. Students are not required to participate in the summer session.

(20 U.S.C. 3052 (7), (8), and (9); and 3054(a) (4) and (10))

§ 161l.6 Selection of students.

(a) An applicant shall establish criteria for the selection of students and plan for recruitment activities. The applicant shall consult on these matters with officials of the public and private, nonprofit secondary schools serving the target area in carrying out these activities.

(b) The responsibility for selection of students to participate in a project rests with officials of the LEA(s) and appropriate private, nonprofit schools with the concurrence of the participating institution(s) of higher education.

(c) Selection criteria shall include—

(1) Nominations of students having potential to successfully complete a course of study leading to a career in one of the biomedical sciences by at least one person from each of three of the following categories who knows a student being considered:

(i) Teachers.

(ii) Principals.

(iii) Counselors.

(iv) Students.

(v) Community representatives or other appropriate persons.

(2) Comprehensive test data and information available on each student's achievement and aptitude which enable the applicant institution of higher education and the secondary schools to determine the student's potential to successfully complete a course of study leading to a career in one of the biomedical sciences; and

(3) Other criteria established by the applicant, the LEA(s) and private, nonprofit school(s) involved.

(d) The applicant shall—

(1) Publicize widely to target students and their parents the opportunity to participate in the project and, before the selection process begins, inform target students and other interested persons about the criteria for selection;

(2) Ensure that individuals from non-English speaking backgrounds are not denied an opportunity for selection because of lack of proficiency in the English language; and

(3) Not deny any eligible student participation in the program on the basis of a single test or selection criterion.

(20 U.S.C. 3052 (7) and (8))

Subpart B—Projects the Office of Education Assists Under This Program

§ 161l.20 Nature of projects.

The Commissioner funds only those projects in the Biomedical Sciences Program that meet all of the following conditions:

(a) The project is developed by the applicant in consultation with the following persons:

(1) Administrators and teachers of the public and private, nonprofit secondary schools of the area.

(2) Interested parents.

(3) Interested target students.

(4) Interested professionals in biomedical science fields.

(b) The project is prepared in terms of a formal agreement among appropriate officials of the applicant institution, schools of biomedical sciences, and the LEA(s) involving the public and private, nonprofit secondary schools of the project.

(c) The project is carried out in cooperation with a public or private nonprofit secondary school system or with a combination of such systems which has a relatively high proportion of students from an economically disadvantaged background as defined in § 161l.3(c) of these regulations.

(d) The plan for the proposed project carefully outlines the respective responsibilities of all personnel directly involved in the project—as well as the commitments of resources—by the applicant institution, the school(s) of biomedical sciences involved, and the related public and private, nonprofit secondary schools.

(e) The applicant offers instruction and other project activities for at least 100 hours in each academic year when secondary schools are not in normal operation.

(f) The project identifies and uses a variety of institutional and community resources that may assist in preparing target students for a career in the biomedical sciences.

(g) The project includes provisions for a summer session that will accommodate all of the target students who wish to enroll.

(h) For a summer program the applicant provides—for at least 15 hours a week during a period of at least six weeks—academic instruction, laboratory training, field work, and other experiences in biological sciences.

(i) The project provides for coordination of its activities and services with those of other public and private agencies and organizations and with other projects that are funded under this program.

(j) The project meets the requirements of the Act (section 302(b)).

(k) The fifth year of the five-year project must center on the following:

(1) Assistance to participating target students in enrolling in postsecondary institutions.

(2) Evaluation of—

(i) Students' progress; and

(ii) The effect of the project experiences on students' interests and actions in undertaking post-secondary school studies in preparation for a career in one of the biomedical sciences.

(3) Program activities for participating target students who are still enrolled in a secondary school involved in the project.

(20 U.S.C. 3054)

§ 161l.21 Duration of projects.

(a) The Commissioner approves projects for a five-year period.

(b) Each grant for an approved five-year project shall be for a budget period of one year.

(20 U.S.C. 3054(a)(1))

§ 161l.22 Conditions required to continue projects.

(a) The applicant shall design an evaluation that will determine the eligibility of students to continue in the project in the second and subsequent years. In order to be eligible to continue in the project in any academic year, the student must have—

(1) Participated in at least 100 hours of project activities during the previous academic year;

(2) Demonstrated minimum competency for his or her grade level in science, mathematics, communication, and other curriculum offerings as measured by an evaluation activity similar to one used to measure the competency of students in regular school programs; and

(3) Demonstrated potential for success in biological sciences as measured by satisfactory performance in laboratory and other work-related experience.

(b)(1) In its first academic year, the project must enroll at least 100 talented students who are from an economically disadvantaged background and who are in the ninth grade.

(2) Not less than 50 percent of the original ninth grade students who were full participants during the first academic year must remain full participants during the second academic year.

(3) Not less than 25 percent of the original ninth grade students who were full participants during the first academic year must remain full participants during the third academic year.

(4) Not less than 12½ percent of the original ninth grade students who were full participants during the first academic year must remain full participants during the fourth academic year.

(5) These enrollment requirements apply only to participating target students selected in accordance with § 161/.6.

(20 U.S.C. 3052(3), 3054(b))

(6) A grantee shall not use project funds to enroll additional students beyond the original group except for students transferring between similar projects.

§ 161I.23 Information required to continue projects.

For each year of the grant the applicant shall submit to the Commissioner the following information:

(a) The number of target students who have participated satisfactorily in the project for not fewer than 100 hours in the academic year.

(b) The number of target students who will participate during the following year.

(c) Changes in the nature, scope, and schedule of activities to be conducted in the academic year program and summer program during the following year.

(d) An itemized budget for the academic year program and summer program for the following year.

(20 U.S.C. 3054(a)(1))

Subpart C—How To Apply for a Grant

§ 161I.30 Procedures for applying.

In applying for a grant, an institution of higher education shall follow the procedures and meet the requirements stated in EDGAR.

(20 U.S.C. 3055)

§ 161I.31 Limitation on the number of applications.

(a) An institution of higher education may submit only one application in a fiscal year for assistance under this part.

(b) During the second and subsequent years of a project, a grantee may apply for another grant in competition with other applicants, but subject to the same provisions of the Act and of these regulations as the first grant.

(c) An institution of higher education may receive grants for a maximum of four projects.

(20 U.S.C. 3055)

§ 161I.32 State review of applications.

(a) The Commissioner does not approve an application from an institution of higher education unless its SEA— and the State authority for higher education, if it is different from the SEA—has had an opportunity to review and comment on the application. Neither the SEA nor the State authority for higher education may disapprove an application.

(b) The applicant shall follow the requirements in part 100a of EDGAR concerning State review procedures.

(20 U.S.C. 3055)

Subpart D—How a Grant Is Made

§ 161I.40 Review, selection, and approval of applications.

The procedures for review, selection, and approval of applications and other related information are contained in part 100a of EDGAR.

(20 U.S.C. 3055)

§ 161I.41 Criteria for approval of applications; general information.

(a) In evaluating an application, the Commissioner uses general selection criteria and criteria that are specific to the Biomedical Sciences Program.

(b) The criteria are weighted and are based on a total possible score of 100.

(1) The Commissioner gives the general criteria a total score of 70 points.

(2) The three additional criteria that are specific to applications for grants in the Biomedical Sciences Program total 30 points.

(c) The total points appear in parentheses with each criterion in § 161/.42 and § 161/.43.

(d) The Commissioner gives special consideration to projects in accordance with § 161/.44 of this part.

(20 U.S.C. 3055)

§ 161I.42 General criteria.

The Commissioner reviews an application for information applying general criteria listed in EDGAR and modified general criteria related to EDGAR.

(a) *Plan of operation (25 points).* (1) Criteria listed in § 100a.202 of EDGAR will apply. (10 points)

(2) The following additional criteria related to the plan of operation will apply: (15 points)

(i) An explanation of how the project is tailored to the geographic conditions and the characteristics of the population of each area to be served.

(ii) For each academic year and for each summer following each academic year during the five years of the project—

(A) Objectives of the project;

(B) Activities to achieve the objectives; and

(C) Procedures to be followed in administering the project.

(iii) The degree to which LEA officials, teachers, representatives of private, nonprofit schools, interested students and parents, community representatives, and others have participated in the design of the project.

(iv) The manner in which the applicant will select target students and an explanation of selection procedures the applicant will use to ensure objectivity.

(v) The method by which the applicant will encourage students who are not eligible for financial support under the project, as identified in § 161/.5 of this part, to participate in the program without reducing the nature and quality of activities for participating target students.

(vi) The ways in which the applicant will identify the individual needs of participating target students, design appropriate programs, and provide counseling to students and parents.

(vii) The applicant's plans to involve parents of participating target students in—

(A) Appropriate project activities;

(B) The evaluation of student progress; and

(C) Career counseling.

(viii) Other activities that meet the specific requirements for projects stated in the Act (section 384(a)).

(b) *Quality of key personnel (10 points).* Criteria listed in § 100a.203 of EDGAR will apply.

(c) *Budget and cost effectiveness (10 points).* (1) Criteria listed in § 100a.204 of EDGAR will apply. (5 points)

(2) The following additional criteria related to budget and cost effectiveness will apply: (5 points)

(i) An effective plan of financial management, including a general budget for the five-year project period and an itemized budget for the first year of the grant, including the summer session.

(ii) An itemized statement of costs that justifies each line item in the budget.

(iii) Evidence that costs are reasonable in relation to the number of participants.

(iv) An explanation of any stipends, honoraria, and travel expenses for consultants and other resource persons.

(v) The projected costs of special functions involving parents and other appropriate individuals.

(vi) The projected costs of follow-up activities and other program evaluation during the fifth year of the project.

(d) *Evaluation plan (15 points).* (1) Criteria listed in § 100a.205 of EDGAR will apply. (5 points)

(2) The following additional criteria related to an evaluation plan will apply: (10 points)

(i) Criteria for retention of participating target students in the project, procedures for evaluating student progress, and methods to be used in identifying and analyzing any student problems and drop-out conditions.

(ii) Specific plans for assessing the impact of the project on participating target students during the fifth year (section 384(a)(11)).

(iii) Provisions for maintaining records, providing information and data, and otherwise cooperating with the Commissioner in conducting evaluations required by the Act (section 387 (b)).

(e) *Adequacy of resources (10 points).* (1) Criteria listed in § 100a.206 will apply. (3 points)

(2) The following additional criteria related to adequacy of resources will apply: (7 points)

(i) How the applicant will identify the resource persons, and how and to what extent they will be available to assist individual students.

(ii) What services principals, teachers, counselors, and others of the secondary schools involved will provide to facilitate the full participation of target students and to supplement the services and resources provided by the applicant.

(iii) How the applicant will involve parents and volunteers, and the ways in which resource personnel may assist, counsel, encourage, and motivate parents and participating target students in planning for biomedical careers.

(iv) How the applciant will seek out, use, and coordinate Federal, State, and other programs and resources that will help meet the needs and enrich the experiences of participating target students.

(20 U.S.C. 3055)

§ 161l.43 Additional criteria specific to projects in the biomedical sciences.

The Commissioner reviews an application for information on three additional criteria specifically related to proposed projects in the Biomedical Sciences Program.

(a) *Training of personnel involved in or related to projects in the biomedical sciences (10 points).* Procedures to be used in training appropriate personnel involved in and related to the project, including such considerations as the following:

(1) Assisting university faculty members and consultants to understand the characteristics and needs of participating target students and to adjust their instructional and counseling methods accordingly.

(2) Helping project personnel—who are not from economically disadvantaged backgrounds or who are inexperienced in working with persons who come from different ethnic groups or with individuals whose dominant language is not English—to understand the backgrounds and needs of participating target students.

(3) Coordinating the project activities with the participating target students' regular program of studies in the secondary schools—and training the secondary school teachers to modify or strengthen their instruction, if necessary—so that the special activities of the project and the regular school program wil be mutually supplementary to the benefit of each participating target student.

(b) *Cooperation among institutions, agencies, and organizations (10 points).* (1) Procedures to be used for identifying and coordinating services and resources—public, professional, voluntary, private, and civic agencies, organizations, and institutions—concerned with motivating and helping economically disadvantaged youth to seek careers in the biomedical sciences.

(2) The commitments of the major collaborators in the project—local hospitals and clinics, professional medical and dental societies, scientific laboratories, business firms, labor organizations, and voluntary and civic groups—in providing assistance to the project.

(3) Plans for interchange of information and materials with other projects funded under the Act (section 385(b)).

(4) Plans for coordinating the project with other special programs for the disadvantaged and for assisting the students to seek and participate in programs that provide opportunity for post-secondary school study in the biomedical sciences.

(c) *Quality of dissemination (10 points).* (1) The plans for—

(i) Identifying successful practices, materials, and other results from the project; and

(ii) Assisting the participating LEAs to incorporate these into their regular educational programs of elementary and secondary schools so as to apply the benefits of the project to other students as early as possible in their education careers.

(2) Procedures for cooperation with the SEA and the involved LEAs to identify and validate successful practices and instructional and counseling materials.

(3) The quality of the plan to make information about the project available to interested agencies and institutions and the general public.

(20 U.S.C. 3055)

§ 161l.44 Special considerations.

Among proposed projects that are judged to be relatively equal (within 10 points of one another), the Commissioner—

(a) Gives priority to programs not previously offered;

(b) Gives special consideration to projects located in health manpower shortage areas (designated under section 332 of the Public Health Service Act) or in a rural area; and

(c) Takes into account the location of the projects to assure a diversity of geographic settings.

(20 U.S.C. 3053(b))

Subpart E—Conditions That Must Be Met by a Grantee

§ 161l.50 Allowable costs.

(a) Grants to institutions of higher education are governed by the provisions of EDGAR and the Act (section 386).

(b) A grantee may use funds awarded under this part to meet the cost of project activities (section 384(a)) and of

other direct and indirect costs of project activities. These costs may include, but are not limited to, the following:

(1) Stipends and necessary travel expenses of university faculty members and consultants directly incurred as a result of the project.

(2) Stipends for participating target students that meet the following conditions:

(i) During an academic year, a stipend—based on a minimum of 100 hours of participation per academic year—is not to exceed $30 per month.

(ii) The grantee shall prorate the amount of the stipend according to the number of hours during which the target student participated each month.

(iii) The participating target student shall receive no additional pay from project funds for work performed as a part of project activities.

(3) Transportation for participating target students for field trips or other activities away from project sites in the most economically feasible manner.

(4) Meals and housing for participating target students provided by the institution in special cases—e.g., week-end residential workshops, special events, or field trips—only if these costs cannot be met in any other feasible way.

(5) Stipends for personnel to work with participating target students, provided such work is not a part of their normal assignment.

(6) Transportation and meals for educational personnel who are working with target students to participate in peoject activities that are specifically explained in the application, if these costs cannot be met in any other feasible way.

(7) Transportation and meals for parents of target students to participate in special events related to the project which are specifically explained in the application.

(c) The grantee may use funds for summer sessions for expenditures similar to those stated in § 161l.50(b), except that a stipend for each participating target student shall be no more than the prevailing minimum wage based on full-time participation not to exceed 20 hours per week. In order to receive a stipend, a participating target student must provide evidence of satisfactory participation in summer project activities, including regular attendance and performance in accordance with standards established by the grantee and described in the application.

(20 U.S.C. 3054(a), 3056)

§ 161l.51 Nonallowable costs.

The grantee may not use project funds for the following purposes:

(a) Any additional cost related to providing instruction, training, or services under § 161.5(e) for talented secondary school students who do not qualify as economically disadvantaged students, or any students other than students transferring between similar projects who enroll in the project after the first year.

(b) Any cost that any institution or agency involved in the project would incur if a project were not in operation.

(20 U.S.C. 3054, 3056)

§ 161l.52 Coordination among the projects.

During the project period, each of the grantees shall cooperate and coordinate efforts with all other grantees through activities, including the following:

(a) An exchange of materials and information describing project participants, activities, facilities, and resources.

(b) An exchange of evaluation designs and reports.

(c) Consultation among project directors.

(20 U.S.C. 3055(b))

[FR Doc. 79-19656 Filed 6-22-79; 8:45 am]

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federal register

Monday
June 25, 1979

Part VIII

Department of Health, Education, and Welfare

Office of Education

National Diffusion Network Program

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Education Office

[45 CFR Part 193]

National Diffusion Network Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commissioner of Education proposes regulations governing the National Diffusion Network (NDN). The proposed regulations implement a change in statutory authorization for the program under the Education Amendments of 1978 and policy changes within the Office of Education. The effect of these regulations is to promote the widespread installation of rigorously evaluated, exemplary programs.

DATES: All comments on these proposed regulations must be received on or before August 24, 1979. Written comments are preferred. Public meetings will be held in each of the ten regional office cities on August 3, 1979. The time for these meetings is—

9 a.m.–12 noon.

1 p.m.–5 p.m.

7 p.m.–9 p.m.

ADDRESSES: Comments should be addressed to Andrew Lebby, Division of Educational Replication, U.S. Office of Education, 400 Maryland Avenue, SW. (ROB–3, Room 3616), Washington, D.C. 20202.

The locations of the public meetings are—

Region I—Boston

Boston School Dept., Adminstration Building, Boston Committee Hearing Rm., 26 Court Street, Boston, Massachusetts.

Region II—New York

Hearing Room E, Room 2222, 26 Federal Plaza, New York, New York.

Region III—Philadelphia

University City Holiday Inn, 36th & Chestnut Street, Philadelphia, Pennsylvania.

Region IV—Atlanta

Regional Office Building, 101 Mariette Towers Bldg., Suite 2221, Atlanta, Georgia.

Region V—Chicago

Center for Urban Education, 160 West Wendell Street (1050 North Wells), Chicago, Illinois 60601.

Region VI—Dallas

William Travis Elementary School, 3001 McKinney Street, Dallas, Texas 75204.

Region VII—Kansas City

Federal Office Bldg., 601 East 12th Street, Room 140, Kansas City, Missouri.

Region VIII—Denver

George Washington High School, 655 South Monaco Street, Denver, Colorado.

Region IX—San Francisco

Federal Office Building, Room 209, 50 United Nations Plaza, San Francisco, California.

Region X—Seattle

Ingram High School, Little Theater, 1819 North 135th Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Andrew Lebby, (202) 245–9583.

FOR INFORMATION ON REGIONAL HEARINGS CONTACT: The appropriate Regional Commissioner for Educational Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.
Region II, New York, Dr. William D. Green, (212) 264–4370.
Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.
Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063.
Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215.
Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.
Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.
Region VIII, Denver, Dr. John Runkel, (303) 837–3544.
Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.
Region IX, Seattle, Mr. Allen Apodaca, (206) 442–0460.

SUPPLEMENTARY INFORMATION:

Background

The NDN was established in 1974 to promote—at a fraction of their original development costs—widespread installation across the Nation of rigorously evaluated, exemplary programs.

There is no statutory provision that expressly mandates or authorizes the NDN. The NDN was originally authorized in Fiscal Year (FY) 1974 under the Elementary and Secondary Education Act, Title III, section 306. In FY 1977, authorization was shifted by the Congress to section 422(a) of the General Education Provisions Act (GEPA). FY 1980 authority is contained in the Elementary and Secondary Education Act, sections 303 and 376.

The NDN is a delivery system composed of two types of projects—

(a) *Developer/Demonstrator Projects.* These are conducted by the developers of exemplary educational approaches approved by the Education Division's Joint Dissemination Review Panel (JDRP).

(b) *Facilitator Projects.* These are directed by persons knowledgeable about the exemplary programs who engage in wide spread dissemination to promote and support the adoption of these programs in new settings within their respective States.

These proposed regulations—(a) Describe the purpose of the program;

(b) Describe the purpose, procedures, and criteria used by the Joint Dissemination Review Panel;

(c) Describe types of projects and specific activities to be carried out under the conditions of the awards; and

(d) Govern the selection of projects eligible for funding.

The proposed regulations include provisions concerning the following:

(a) Grants, rather than contracts, are used as the award mechanism.

(b) The funding competition is expanded from elementary and secondary programs to allow submission of programs in all content areas served by Office of Education programs.

(c) The funding competition is expanded to allow submission of certain programs previously developed without the use of Federal funds by public or nonprofit private organizations, agencies or institutions.

On an annual basis the Commissioner will announce eligible content areas among Federally and non-Federally developed programs that may compete for NDN funding. Content areas for non-Federally developed programs will be based on whether the number of Federally developed exemplary programs is sufficient to meet demand. Yearly content areas will be published in the **Federal Register.** Programs must be approved by the JDRP prior to being submitted for NDN funds.

(d) Joint Dissemination Review Panel approval is required before a program, practice, or product can be disseminated as exemplary using Education Division funds. Applicants should be aware that approximately four weeks time is necessary for processing.

An expanded explanation of the JDRP's purpose, procedures, and criteria, including examples of successful submissions, is available from the Division of Educational Replication, U.S. Office of Education, 400 Maryland Avenue, SW., (ROB–3; Rm. 3616), Washington, D.C. 20008, Attention: Sy Rubak.

Because of the inclusion of the National Diffusion Network in Title III of the Elementary and Secondary Education Act—

(a) Local educational agencies must afford the public an opportunity to comment on their applications; and

(b) Local educational agencies and State educational agencies must meet the requirements for serving private school children in Title III of the Elementary and Secondary Education Act.

These proposed regulations do not contain requirements covered in the Education Division's General Administrative Regulations (EDGAR). EDGAR regulations, which apply to all Office of Education programs, have been published in proposed form and will replace the General Provisions for Office of Education Programs Regulations.

The following items applicable to this program are among those covered generally in EDGAR:

How to apply for a grant.
How grants are made.
Certain conditions that must be met by a grantee.
The administrative responsibilities of a grantee.
The procedures the Office of Education uses to assure compliance.

Invitation to Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal Regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, we need to get an idea how many persons are interested in speaking about these regulations. If you are interested in making oral comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education, who will schedule a time for your comments. Persons who do not notify the Regional Commissioner of their intention to make comments will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

We expect that comments on these proposed regulations will be the first item on the agenda of the public meeting.

In addition, interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before August 24, 1979 will be considered in the development of the final regulations.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 3616, ROB-3, 7th & D Streets, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Citation of Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

Dated: May 21, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Approved: June 17, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Number 13.553, National Diffusion Network)

The Commissioner proposes to revise Part 193 of Title 45 as follows:

PART 193—NATIONAL DIFFUSION NETWORK

Subpart A—General

Sec.

193.1 What is the National Diffusion Network (NDN)?
193.2 What regulations apply to the NDN?
193.3 What definitions apply specifically to the NDN?
193.4—193.10 [Reserved].

Subpart B—What Kinds of Projects Does the Office of Education Assist Under This Program?

193.11 What kind of projects does OE assist?
193.12 What is a Developer/Demonstrator Project?
193.13 Developer/Demonstrator Project: Prior Joint Dissemination Review Panel approval required.
193.14 Who is eligible to receive a Developer/Demonstrator grant?
193.15 Will priorities for funding of Developer/Demonstrator grants be established?
193.16 What is a Facilitator Project?
193.17 Who is eligible to receive a Facilitator grant?
193.18—193.20 [Reserved].

Subpart C—How To Apply for a Grant

193.21 How does one apply for a Developer/Demonstrator or Facilitator grant?
193.22—193.30 [Reserved].

Subpart D—How Is a Grant Made?

193.31 What criteria does the Commissioner use in selecting Developer/Demonstrator applications?
193.32 What criteria does the Commissioner use in selecting Facilitator applications?
193.33—193.40 [Reserved].

Subpart E—What Conditions Must be Met by a Grantee?

193.41 Are there restrictions on the kinds of items a grant may support?
193.42 Participation by private school children.

Authority.—Secs. 303 and 376 of Title III of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

Subpart A—General

§ 193.1 What is the National Diffusion Network (NDN)?

The National Diffusion Network (NDN) funds activities designed to promote across the Nation the widespread installation of approved, exemplary educational programs by education service providers. The NDN is designed—

(a) To acquaint these providers with information on available exemplary programs; and

(b) If a decision to adopt is made, to help them through training and technical assistance.

(20 U.S.C. 2943, 3041)

§ 193.2 What regulations apply to the NDN?

(a) *Regulations.* The following regulations apply to the NDN:

(1) The Education Division General Administrative Regulations (EDGAR) in part 100a (Direct Grant Programs) and part 100c (Definitions).

(2) The regulations in this part.

(b) *How to use regulations; how to apply for funds.*

The "Introduction to Education Division Programs" at the beginning of EDGAR includes general information to assist in—

(1) Using regulations that apply to Education Division programs; and

(2) Applying for assistance under an Education Division program.

(c) *Definitions in EDGAR.* The following terms used in this part are defined in part 100c:

Applicant.
Application.
Budget.
Education Division.
Equipment.
Facilities.
Grantee.
Institution of higher education.
Local educational agency (LEA).
Nonprofit.
Project.
Private.
Public agency.
State educational agency (SEA).

(20 U.S.C. 1221c-3, 2943, 3041)

§ 193.3 What definitions apply specifically to the NDN?

The following definitions apply specifically to this program:

(a) "Education service provider" means any public or nonprofit private agency or organization responsible for the provision of educational services. Included are State educational agencies (SEAs), local educational agencies (LEAs), nonprofit private educational agencies, public or nonprofit private

institutions of higher education, and public libraries, among others.

(b) "Program" means a program, product, or practice.

(20 U.S.C. 2943, 3041)

Subpart B—What Kinds of Projects Does the Office of Education Assist Under this Program?

§ 193.11 What kinds of projects does OE assist?

The Office of Education assists two types of projects under the National Diffusion Network:

(a) Developer/Demonstrator Projects; and

(b) Facilitator Projects.

(20 U.S.C. 2943, 3041)

§ 193.12 What is a developer/demonstrator project?

A Developer-Demonstrator Project must conduct all of the following activities. It—

(a) Disseminates information about an exemplary educational program throughout the nation;

(b) Develops materials about the exemplary program for education service providers to use in deciding whether to adopt the program;

(c) Refines, produces, and packages instructional, management, and training materials on the program.

(d) Provides training and technical assistance in planning, implementing, and evaluating the program to education servicice providers;

(e) Monitors and evaluates the effectiveness of the dissemination process, including effectiveness of adoption by education service providers;

(f) Participates with other National Diffusion Network grantees in workshops and meetings arranged by the Commissioner; and

(g) Cooperates with Facilitator Project grantees under paragraphs a, d, and e above.

(20 U.S.C. 2943, 3041)

§ 193.13 Developer/demonstrator project: Prior JDRP approval of exemplary educational approach required.

(a) An applicant seeking funding for a Developer/Demonstrator Project must propose to further develop or demonstrate a program which the Joint Dissemination Review Panel (JDRP) of HEW has previously approved as effective and exemplary.

(b) The JDRP review is conducted as follows:

(1)(i) If the program was developed with Education Division funds, an applicant submits the program and supporting evidence to the Education Division program office that funded its development or to the Division of Educational Replication.

(ii) If the program was not developed with Education Division funds, an applicant submits the program and supporting evidence to the Division of Educational Replication.

(2) The Education Division office that receives the submission, reviews it for accuracy, social fairness (e.g., 1 freedom from race and sex role stereotyping) and possible harm to users. If acceptable, the program office transmits the submission to the JDRP.

(3) The JDRP looks for the following in evaluating submission: (i) Is there evidence of any important change consistent with the stated claims of the submission?

(ii) Can this change credibly be attributed to the program?

(iii) Is there evidence that this program can be adopted by and is likely to benefit other education service providers?

(20 U.S.C. 2943, 3041)

§ 193.14 Who is eligible to receive a developer/demonstrator grant?

An application for a Developer/Demonstrator Project may be submitted by any public or nonprofit private agency, organization, or institution that has developed an exemplary educational program approved for dissemination by the JDRP.

(20 U.S.C. 2943, 3041)

§ 193.15 Will priorities for funding of developer/demonstrator grants be established?

The Commissioner may establish eligible content areas among Federally and non-Federally developed projects to be funded in any given year. The Commissioner announces these areas in the **Federal Register.**

(20 U.S.C. 2943, 3041)

§ 193.16 What is a facilitator project?

A Facilitator Project must conduct all the following activities in the State or intrastate region served:

(a) Informs education service providers about the availability of JDRP-validated, exemplary programs in the NDN, both funded and unfunded;

(b) Assists education service providers in determining the applicability of NDN programs to meet their assessed needs.

(c) Arranges for potential adopters to visit sites of Developer/Demonstrator Projects if appropriate.

(d) Arranges for recipients of Developer/Demonstrator grants to train staff members of education service providers that choose to install one or more of the NDN programs.

(e)(1) Provides technical assitance to adopters—after a program is installed—to maintain proper functioning of all program components; and

(2) Monitors program adoptions to maintain quality control.

(f) Identifies for submission to the JDRP potential exemplary projects developed within the State or region served.

(g) Participates in workshops and meetings arranged by the Commissioner to share information among and provide technical assistance to NDN grantees.

(h) Cooperates with Developer/Demonstrator grantees under paragraphs a, d, and e above.

(20 U.S.C. 2943, 3041)

§ 193.17 Who is eligible to receive a facilitator grant?

An application for a Facilitator Project may be submitted by any public or nonprofit private agency, organization, or institution located in the State or intrastate region to be served.

(20 U.S.C. 2943, 3041)

Subpart C—How to Apply for a Grant

§ 193.21 How does one apply for a developer/demonstrator or facilitator grant?

The Commissioner considers making a grant to an eligible agency, organization, or institution only if it submits an application meeting—

(a) The requirements under subpart C of part 100a of EDGAR; and

(b) Any additional requirements that may be specified in the annual notice of closing date published in the **Federal Register.**

(20 U.S.C. 2943, 3041)

Subpart D—How Is a Grant Made?

§ 193.31 What selection criteria does the Commissioner use in selecting developer/demonstrator applications?

(a) The Commissioner evaluates an application on the basis of the selection criteria in §§ 100a.202 through 100a.206 (EDGAR) and the criteria in these regulations. The total possible score for all criteria is 100 points. The maximum possible score for each criterion indicates the relative importance assigned to that criterion by the Commissioner.

(b) The selection criteria in EDGAR constitute 64 possible points and include the following:

(1) Plan of operation. (20 points)

(2) Quality of key personnel. (15 points)
(3) Budget and cost effectiveness. (10 points)
(4) Evaluation plan. (15 points)
(5) Adequacy of resources. (4 points)
(c) In addition to the EDGAR criteria, the Commissioner applies the following criteria constituting 36 possible points. The Commissioner considers the extent to which the applicant—
(1) Clearly details plans for post-adoption monitoring and evaluation of project sites; (20 points)
(2) Provides for access to the developer site for potential adopters to see the program in operation; (6 points) and
(3) Proposes innovative dissemination strategies that may be worthy of replication by other NDN projects. (10 points)

(20 U.S.C. 2943, 3041)

§ 193.32 What selection criteria does the Commissioner use in selecting facilitator applications?

(a) The Commissioner evaluates an application on the basis of the selection criteria in §§ 100a.202 through 100a.206 (EDGAR) and the criteria. The total possible score for all criteria is 100 points. The maximum possible point score for each criterion indicates the relative importance assigned to that criterion by the Commissioner.
(b) The selection criteria in EDGAR constitute 64 possible points and include the following:
(1) Plan of operation. (20 points)
(2) Quality of key personnel. (15 points)
(3) Budget and cost effectiveness. (10 points)
(4) Evaluation plan. (15 points)
(5) Adequacy of resources. (4 points)
(c) In addition to the EDGAR criteria, the Commissioner applies the following additional criteria constituing 36 possible points.
(c) In addition to the EDGAR criteria, the Commisioner applies the following additional criteria constituting 36 possible points. The Commissioner considers the extent to which the applicant—
(1) In developing its application has consulted with SEAs and LEAs, private elementary and secondary schools, and other educational resources in the State or intrastate region to be served; (5 points)
(2) In carrying out project activities provides for consultation with SEAs and LEAs, private elementary and secondary schools, and other educational resources in the State or intrastate region; (5 points)
(3) Clearly details plans to monitor and evaluate sites that adopt the program; (16 points) and
(4) Proposes innovative dissemination strategies that may be worthy of replication by other NDN projects. (10 points)

(20 U.S.C. 2943, 3041)

Subpart E—What Conditions Must be Met by a Grantee?

§ 193.41 Are there restrictions on the kind of items a grant may support?

Funds may not be used for construction, repair, remodeling, or alteration of facilities or sites.
(20 U.S.C. 2943, 3041)

§ 193.42 Participation by private school children.

(a) A grant to an SEA or an LEA is subject to the requirements in section 302(b) of the Elementary and Secondary Education Act of 1965, as amended, concerning (1) consultation with private school officials in developing the application; and (2) the opportunity for participation by private school children. The requirements are implemented in §§ 100a.680 and 100b.650 through 100b.663 of EDGAR.
(b)(1) An SEA or LEA applicant for a Developer/Demonstrator Project shall satisfy the requirement concerning consultation with private school officials in developing the application by consulting with private school officials—
(i) At the original program site; or
(ii) At adopter sites that have been identified before the application is submitted.
(2) An SEA or LEA applicant for a Facilitator Project shall satisfy this requirement by consulting with representative private school officials within the State or intrastate region to be served by the project.
(c) An SEA or LEA that receives a Developer/Demonstrator grant or a Facilitator grant shall comply with the requirements concerning the opportunity for participation by private school children by—
(1) Providing teachers and administrators of private schools at the adopter site an opportunity to participate in project activities on a basis comparable to that provided for public school teachers and administrators; and
(2) Imposing the requirements concerning participation by private school children in the program on the adopter site.

(20 U.S.C. 2942(b))

[FR Doc. 79-19653 Filed 6-22-79; 8:45 am]
BILLING CODE 4110-02-M

federal register

Monday
June 25, 1979

Part IX

Department of Health, Education, and Welfare

Office of Education

Youth Employment Program

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 161f]

Youth Employment Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commissioner of Education proposes regulations to govern the use of funds under the Youth Employment Program authorized by the Elementary and Secondary Education Act, as amended. The Youth Employment Program provides assistance to:

a. Study, develop, and demonstrate effective ways of preparing youth for employment;

b. Coordinate educational activities with youth employment activities; and

c. Disseminate information about effective ways of preparing youth for employment.

DATES: Comments on these proposed regulations must be received on or before August 24, 1979.

Public meetings will be held in each of the ten regions on August 3, 1979. The times for these meetings are—

1:00 p.m.–5:00 p.m.

7:00 p.m.–9:00 p.m.

ADDRESSES: Comments should be addressed to Ann E. Donovan, U.S. Office of Education, 400 Maryland Avenue, S.W., (ROB–3, Room 5008), Washington, D.C. 20202.

The locations of the public meetings are—

Region I—Boston

Boston School Dept., Administration Building, Boston Committee Hearing Rm., 26 Court Street, Boston, Massachusetts.

Region II—New York

Hearing Room E, Room 2222, 26 Federal Plaza, New York, New York.

Region III—Philadelphia

University City Holiday Inn, 36th & Chestnut Street, Philadelphia, Pennsylvania.

Region IV—Atlanta

Regional Office Building, 101 Mariette Towers Bldg., Suite 2221, Atlanta, Georgia.

Region V—Chicago

Center for Urban Education, 160 West Wendell Street (1050 North Wells), Chicago, Illinois 60601.

Region VI—Dallas

William Travis Elementary School, 3001 McKinney Street, Dallas, Texas 75204.

Region VII—Kansas City

Federal Office Bldg., 601 East 12th Street, Room 140, Kansas City, Missouri.

Region VIII—Denver

George Washington High School, 655 South Monaco Street, Denver, Colorado.

Region IX—San Francisco

Federal Office Building, Room 209, 50 United Nations Plaza, San Francisco, California.

Region X—Seattle

Ingram High School, Little Theater, 1819 North 135th Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ann E. Donovan, (202) 245–9730.

FOR INFORMATION ON REGIONAL HEARINGS CONTACT: The appropriate Regional Commissioner for Educational Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.
Region II, New York, Dr. William D. Green, (212) 264–4370.
Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.
Region IV, Atlanta, Dr. William L. Lewis (404) 221–2063.
Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215.
Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.
Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.
Region VIII, Denver, Dr. John Runkel, (303) 837–3544.
Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.
Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

SUPPLEMENTARY INFORMATION:

Background

The Youth Employment Program, Sections 341–2 of Title III of the Elementary and Secondary Education Act as amended, authorizes Federal funds for activities including those that:

(a) Contribute to the knowledge about education and work;

(b) Stimulate educational institutions to develop appropriate procedures for awarding academic credit for work experience; and

(c) Provide technical assistance to local educational agencies and other eligible entities to develop employment programs. The following long term issues related to work and training will also be researched:

(a) The relationship of work experience to academic achievement;

(b) The relationship of work experience to basic skill development;

(c) Ways to improve career guidance and counseling services; and

(d) Ways to improve placement and follow-up transition services using school and community personnel.

The Youth Employment Program is explained by the questions and answers that follow:

What is the purpose of the youth employment program?

The purpose of the Youth Employment Program is to prepare youth to take their place as working members of society.

Who is eligible for assistance under the youth employment program?

State education agencies (SEAs), local educational agencies (LEAs), other public and private non-profit agencies are eligible for assistance under the Youth Employment Program.

What kinds of activities does the youth employment program assist?

The Commissioner makes awards for activities authorized in Sec. 341 of the Act (20 U.S.C. 2991).

Do these regulations contain all necessary requirements?

These proposed regulations do not contain certain types of administrative requirements. These requirements are covered in the Education Division General Administrative Regulations, (EDGAR) of the Office of Education. In addition, applicants are encouraged to read the statute that authorizes the program since these regulations do not incorporate provisions that are clearly stated in the statute.

Copies of the statute and other relevant material will be made available to applicants with the application packet.

Subpart A of these proposed regulations contains a description of the program, eligible applicants, applicable regulations and definitions. Subpart B contains the purpose of the program, and the kinds of activities assisted under the program. Subpart C contains information on how to apply for a grant. Subpart D contains selection criteria for the Youth Employment Program.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority placed in parentheses on the line following each substantive provision.

Invitation to Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, it would be helpful for us to know how many persons are interested in speaking about these regulations. If you are interested in commenting at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education, who will schedule a time for your

comments. Persons who do not notify the Regional Commissioner of their intention to comment also will be given an opportunity to speak. Persons making presentations will be called upon according to their prearranged schedule or—if a schedule has not been prearranged—in the order of registration.

In addition, interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before August 24, 1979 will be considered in the development of the final regulations.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 5008, ROB–3, 7th & D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Dated: May 31, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Approved: June 16, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Number—not assigned)

The Commissioner proposes to amend Title 45 of the Code of Federal Regulations by adding a new Part 161f to read as follows:

PART 161f—YOUTH EMPLOYMENT PROGRAM

Subpart A—General

Sec.

161f.1 Youth employment program.
161f.2 Eligible applicants.
161f.3 Regulations that apply to the youth employment program.
161f.4 Definitions that apply to the program.
161f.5–9 [Reserved]

Subpart B—Kinds of Activities Assisted Under This Program

161f.10 Purpose of the youth employment program.
161f.11 What categories of activities are supported?
161f.12 Emphasis among categories of activities.
161f.13–19 [Reserved]

Subpart C—How To Apply for a Grant

161f.20 How to apply for funds.
161f.21–29 [Reserved]

Subpart D—How a Grant Is Made

161f.30 Selection criteria the Commissioner uses.
161f.31–39 [Reserved]

Authority: Part f of the Title III of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561; (20 U.S.C. 2991–2992).

Subpart A—General

§ 161f.1 Youth employment program.

The Youth Employment Program provides financial assistance for activities to improve youth employment by relating education and work and by improving educational and employment services.

(20 U.S.C. 2991)

§ 161f.2 Eligible applicants.

(a) The following are eligible to receive grants.

(1) State educational agencies (SEAs);

(2) Local educational agencies (LEAs);

(3) Other public and private non-profit agencies, institutions, and organizations.

(b) The agencies and organizations in paragraph (a) above, as well as private profit-making organizations, are eligible to receive procurement contracts.

(20 U.S.C. 2942, 2991)

§ 161f.3 Regulations that apply to the youth employment program.

(a) *Regulations for grants.* The following regulations apply to grants under the Youth Employment Program—

(1) The Education Division General Administrative Regulations (EDGAR); Part 100a (Direct Grant Programs); and Part 100c (Definitions);

(2) Regulations in this Part.

(b) *Regulations for procurement contracts.* The regulations in this Part do not apply to procurement contracts under this program. Those contracts are subject to—

(1) Federal and HEW procurement regulations in 41 CFR chapters 1 and 3, and

(2) Requirements and criteria in particular requests for proposals.

(20 U.S.C. 2991)

§ 161f.4 Definitions that apply to the program.

Definitions in EDGAR

The following terms used in this part are defined in Part 100c of EDGAR.

"Applicant"
"Commissioner"
"Local educational agency (LEA)"
"Private"
"Project"
"State educational agency (SEA)"
"Applications"
"Grant"
"Nonprofit"
"Program"
"Public agency"

(20 U.S.C. 1232(a))

Subpart B—Kinds of Projects Assisted Under This Program

§ 161f.10 Purpose of the youth employment program.

The purpose of a Youth Employment Program is to prepare youth to take their places as working members of society. This is done by developing ways to improve youth employment through:

(a) Relating education and work; and

(b) Improving educational and employment services for youth.

(20 U.S.C. 2991)

§ 161f.11 What categories of activities are supported?

The Commissioner provides assistance to such activities as:

(a) Developing ways to improve youth achievement in basic educational skills by involving youth in work experiences;

(b) Improving job opportunities for youth by coordinating educational activities with youth employment activities. This includes the youth employment activities carried out by the Secretary of Labor under the Comprehensive Employment and Training Act (CETA), as well as other youth employment activities carried out at local, State, and Federal levels;

(c) Encouraging educational agencies and institutions to develop means to award academic credit for competencies derivied from work experience;

(d) Studying the relationship of work to academic and intellectual achievement;

(e) Developing ways to improve career guidance and counseling services;

(f) Developing ways to improve placement and follow-up transition services from school to work using school and community personnel; and

(g) Developing ways to make the high school organization and operation more flexible as it relates to education and work, including, but not limited to, flexibility of course schedules, class locations and school curricula.

(h) Providing technical assistance, information, training and other assistance to local and State agencies and organizations to develop programs to enable students to more readily make the transition from school to work.

(20 U.S.C. 2991)

§ 161f.12 Emphasis among categories of activities.

The Commissioner may in any given year, support one or more of the categories of activities in § 161f.11. This is announced in the **Federal Register.**

(20 U.S.C. 2991)

Subpart C—How To Apply for a Grant

§ 161f.20 How to apply for a grant.

The "Introduction to Education Division Grant Programs" at the beginning of the Education Division General administrative Regulations (EDGAR) includes general information on—

(a) How to use regulations that apply to Education Division Programs; and

(b) How to apply for a grant under an Education Division Program.

(20 U.S.C. 2991)

Subpart D—How a Grant Is Made

§ 161f.30 Selection criteria the Commissioner uses.

(a) The Commissioner evaluates an application for a grant on the basis of the selection criteria prescribed in 45 CFR Part 100a.202 through 100a.206 (EDGAR) and the criteria contained in these regulations. Applicants are advised to read the EDGAR criteria. The maximum possible point score for each criterion indicates the relative importance assigned to that criterion by the Commissioner.

(b) The selection criteria in EDGAR constitute 30 possible points and include the following:

(1) Plan of operation. (10 points)

(2) Quality of staff. (7 points)

(3) Budget and cost effectiveness. (5 points)

(4) Evaluation plan. (5 points)

(5) Adequacy of resources. (3 points)

(c) The criteria contained in the following paragraphs supplement the EDGAR criteria and constitute 70 possible points. The Commissioner evaluates the extent to which an applicant—

(1) Documents the need for the proposed project in terms of the incidence of youth unemployment and the absence of resources to address the problem; (5 points)

(2) Establishes clearly that the stated objectives of EDGAR criteria in paragraph (b)(1) above meet the needs identified in (c)(1) above; (5 points)

(3) Demonstrates how the proposed project will produce new and innovative approaches to resolving the youth employment problem and to linking the various activities involved in the connection between education and work; (20 points)

(4) Includes measures that foster and sustain communication, coordination and collaboration among providers of educational services and providers of employment services including those under the Vocational Educational Act and the Comprehensive Employment and Training Act (CETA): (20 points)

(5) Shows how the results from the proposed project will improve youth employment. (20 points)

(20 U.S.C. 2991)

[FR Doc. 79-19646 Filed 6-22-79; 8:45 am]

BILLING CODE 4110-02-M

federal register

Monday
June 25, 1979

Part X

Department of Energy

Economic Regulatory Administration

Amendment To Special Rule No. 9 Providing For The Special Allocation Of Middle Distillates

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-25]

Amendment to Special Rule No. 9 Providing for the Special Allocation of Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: FINAL RULE.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is Special Rule No. 9 to 10 CFR Part 211, Subpart A, to eliminate those provisions relating to the allocation of middle distillates for use in agricultural production, agricultural trucking and the production of oil and natural gas. We are also amending Special Rule No. 9 to extend through September 30, 1979 those provisions pertaining to the allocation of middle distillates to meet current requirements for surface passenger mass transportation. The amendment to Special Rule No. 9 is being made effective immediately in order to permit the equitable distribution of petroleum products which are in short supply.

EFFECTIVE DATE: June 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, Room 2222-A, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

William E. Caldwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-8034.

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street, NW., Washington D.C. 20461, (202) 254-7422.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTARY INFORMATION: Due to sustained unfavorable weather conditions in the midwest, the crop planting season had to be compressed into an unusually short period of time this year. Consequently, the demand in May and early June for middle distillates for agricultural production was unusually high. In response to requests by the Department of Agriculture and other groups, we adopted a Special Rule No. 9 providing for the special allocation of middle distillates in order to prevent the interruption of planting activities (44 FR 28606, May 15, 1979).

We requested comments on Special Rule No. 9 through June 15, 1979 and held a public hearing in Washington, D.C. on May 18, 1979. Based on early comments and market data, we amended Special Rule No. 9 to include surface passenger mass transportation, agricultural trucking and crude oil and natural gas production activities (44 FR 31626, June 1, 1979).

Our review of all comments received by June 15, 1979 indicates that Special Rule No. 9 was instrumental in serving its original purpose, which was to provide enough fuel for planting of the nation's crop. However, the comments also indicate that the current shortage of petroleum products has resulted in difficulties for consumers of middle distillates engaged in many activities, and that this shortage situation has been exacerbated for non-priority users by the adoption of Special Rule No. 9.

The Department of Agriculture has notified us that the shortage of middle distillates for agricultural production is no longer of an emergency nature. Ninety to one hundred percent of crops have been planted. Therefore, we have determined that Special Rule No. 9 should be amended to eliminate those provisions providing for the allocation of middle distillates for use in agricultural production and associated agricultural trucking. We are also amending Special Rule No. 9 to eliminate those provisions providing for the allocation of middle distillates for use in the production of crude oil and natural gas. We believe such action is appropriate in view of our determination that it would not be feasible to extend Special Rule No. 9 to include all other essential activities suffering from fuel shortages. For this reason, we also believe that any further supply dislocations which might result from the continued operation of the current provisions of Special Rule No. 9 would not be justified. Therefore, we have determined that the requisite good cause necessary to waive the requirements of section 553(d) of the Administrative Procedure Act can and should be found in order to make today's amendment effective immediately.

We have also determined that there will be a compelling need for the continued allocation of middle distillates to prevent the interruption of surface passenger mass transportation services. This determination is based on our belief that it is necessary to preserve the viability of this service as an alternative to the less fuel efficient private automobile and thus reduce the demand for gasoline during the current supply shortages of that produce. Furthermore, surface passenger mass transportation represents less than two percent of the total demand for middle distillates and, therefore, has a minimal effect on the availability of this product for other uses. In view of these considerations, we are extending through September 30, 1979 those provisions of Special Rule No. 9 providing for the allocation of middle distillates to meet the current requirements for surface passenger mass transportation.

In addition we are continuing the rulemaking in order to consider the need for any other actions to deal with supply problems that may arise during the current supply shortage.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., June 21, 1979.

David J. Bardin,

Economic Regulatory Administrator.

The Appendix to Subpart A of Part 211 is amended by Revising Special Rule No. 9 to read as follows:

Appendix—Special Rule No. 9

Special Allocation of Middle Distillates for Surface Passenger Mass Transportation

1. *Scope.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of Part 210 of this Chapter and of paragraphs (b)(5) and (b)(6) of § 211.1 of this Part, this Special Rule establishes a special allocation program for middle distillates through September 30, 1979.

2. *Definitions.* For purposes of this Special Rule, the relevant definitions of § 211.51 of Part 211 of this chapter shall apply, except that the following definitions shall apply:

"Base period" means the first calendar month prior to May 1979 in which a

wholesale purchaser purchased or obtained middle distillate volumes.

"Current requirements" means, (a) with respect to a wholesale purchaser-consumer or end-user, the volume of middle distillates needed by the wholesale purchaser-consumer or end-user to meet its present supply requirements for middle distillates for use in surface passenger mass transportation, but does not include any amounts which the wholesale purchaser-consumer or end-user purchases or obtains for resale or accumulates as an inventory in excess of that purchaser's customary inventory maintained in the conduct of its normal business practices; or, (b) with respect to a wholesale purchaser-reseller, the volume of middle distillates needed by the wholesale purchaser-reseller to meet its present requirements to supply middle distillates to wholesale purchaser-consumers, end-users or other wholesale purchaser-resellers for ultimate use in surface passenger mass transportation.

"Middle distillates" means any of the following, as defined in § 212.31 of Part 212 of this chapter: No. 1 heating oil, No. 1–D diesel fuel, No. 2 heating oil, No. 2–D diesel fuel and kerosene.

"Surface passenger mass transportation" means any activity in which passengers are transported by means of a commuter bus or rail system (including a metropolitan mass transit system), a school bus, a charter bus, a commuter ferry, or an intercity passenger bus or train.

3. *General Rule.* Each supplier of middle distillates shall supply all wholesale purchaser-consumers, all end-users, and all wholesale purchaser-resellers with their current requirements for middle distillates which have been certified to that supplier in accordance with the provisions of this Special Rule.

4. *Certification Requirements.* (a) *End–users.* An end-user may certify to any supplier its current requirements for middle distillates for surface passenger mass transportation.

(b) *Wholesale purchaser-consumers.* A wholesale purchaser-consumer may certify to its base period supplier its current requirements for middle distillates for ultimate use in surface passenger mass transportation.

(c) *Wholesale purchaser-resellers.* A wholesale purchaser-reseller may certify to its base period supplier its current requirements for: (i) any end user; (ii) any wholesale purchaser-consumer it supplied during the base period (in accordance with paragraph (d) of this section; (iii) any wholesale purchaser-consumer it agrees to supply under section (7); (iv) any assigned purchaser, and (v) any wholesale purchaser-reseller from which it receives a certification for volumes to be supplied pursuant to this Special Rule.

(d) *Purchasers with more than one base period supplier.* A purchaser or supplier which purchased or obtained middle distillates during the base period from more than one supplier may certify to each such supplier a percentage of its current requirements for surface passenger mass transportation which does not exceed the percentage of the total volumes of middle distillates purchased or obtained by the purchaser from that supplier in the base period.

5. *Validation of Certifications.* In the event that a purchaser and its supplier cannot agree on the volunme of middle distillates which the supplier is required to supply to the purchaser under this Special Rule, the purchaser may request validation of the required volume from the appropriate ERA Regional Office. From the time the supplier receives certification, the supplier shall supply the purchaser any volumes which are not in dispute. If ERA determines that the purchaser is entitled to volumes in excess of those supplied by the supplier during the period in which certification was in dispute, ERA may order the supplier to supply such increased requirements and to supply the purchaser with additional volumes of middle distillates equal to the amount the purchaser would have received if the increased requirements had been supplied during such period.

6. *Assignment of suppliers.* Any purchaser which is unable to purchase or obtain its total current requirements for ultimate use in surface passenger mass transportation may apply to the appropriate ERA Regional Office as provided in Subpart C of Part 205 of this chapter to be assigned a supplier; *provided that,* an end-user in a State in which there is a State Office must apply to that State Office as provided in Subpart Q of Part 205 of this chapter for the assignment of a supplier. The purchaser may be assigned one or more suppliers and the amount of its current requirements to be supplied by each supplier may be specified.

7. *Mutual agreements.* As an alternative to the procedures set forth in sections (5) and (6) of this Special Rule, a supplier of middle distillates may agree to supply that portion of the current requirements of a wholesale purchaser-consumer which has been unable to obtain the full amount of its current requirements from its base period suppliers.

8. *Redirection of products.* ERA may at any time prior to August 1, 1979 order the transfer of specified amounts of middle distillates from one area or region to another or among suppliers if necessary to achieve the objectives of this Special Rule.

9. *Inventories of middle distillates.* ERA may review inventory practices of any firm and may at any time prior to August 1, 1979 direct an increase or decrease in inventories if necessary to achieve the objectives of this Special Rule .

10. *Normal business practices; non-discriminatory pricing.* The requirements of paragraphs (a) and (b) of § 210.62 of this chapter shall apply to suppliers to prohibit any practice or any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes and intent of this Special Rule.

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Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
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	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
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523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects

FEDERAL REGISTER PAGES AND DATES, JUNE

31599-31938.....1
31939-32192.....4
32193-32346.....5
32347-32634.....6
32635-33040.....7
33041-33390.....8
33391-33662.....11
33663-33826.....12
33827-34088.....13
34089-34460.....14
34461-34910.....15
34911-35194.....18
35195-36000.....19
36001-36160.....20
36161-36358.....21
36359-36926.....22
36927-37190.....25

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:

12113 (Amended by EO 12141).....32635
12141.....32635
12142.....36927

Proclamations:

4664.....32347
4665.....34089

Administrative Orders:

Memorandums:

June 12, 1979.....34093

Presidential Determinations:

No. 79-10 of June 1, 1979.....34095

Reorganization Plans:

No. 1 of 1979.....33663

4 CFR

Proposed Rules:

331.....31655
332.....31655
351.....31655

5 CFR

294.....33041
317.....34461
720.....33046

Proposed Rules:

Ch. I.....31892
353.....35230
831.....33688
870.....33688
871.....33688
890.....32223, 33688

6 CFR

705.....32338

7 CFR

Ch. II.....35904
16.....36001
215.....33046
245.....33048
250.....32193
271.....33380, 33762, 35924
272.....33380, 33762, 25925
273.....33380, 33762
274.....33380
276.....33380
281.....35924
283.....35928
295.....35195
401.....35195, 35201
402.....36929
417.....36161
418.....31599
419.....35195
430.....35201
722.....36359
725.....36359
728.....36359
729.....34463
760.....34464, 36360
775.....36359
908.....32637, 34097, 36167
910...31610, 33049, 34464, 36361
911.....34465
912.....31610
918.....31939
929.....35207
944.....34465
945.....36001
948.....33391
991.....32194, 36361
1207.....33391
1421.....31611, 31614
1427.....32637
1435.....36361
1446.....33827
1944.....36890
1948.....35980
1980.....33050
2852.....36363

Proposed Rules:

Ch. IX.....34135
245.....36396
246.....35231
250.....36396
301.....32224, 34501
319.....34856
724.....35230
800.....32394
802.....32394
803.....32394
907.....32706
916.....32224
919.....36055
945.....34508
948.....32706
1004.....36985
1099.....32708
1430.....36986
1701.....33076

8 CFR

Proposed Rules:

103.....36187
108.....36187
205.....36187
211.....36187
212.....36187
214.....36187
223.....36187
235.....36187
242.....36193
243.....36187
245.....36187
248.....36187

249.....36187
250.....36187
252.....36187
254.....36187
256.....36187
271.....36187
336.....36187

9 CFR

1.....36868
3.....36868
78.....31619, 36373
82.....31620, 32195, 33050
92.....31621
113.....31622, 33051
Proposed Rules:
Ch. I.....33801
92.....36397
317.....31665
318.....31665
381.....31665

10 CFR

19.....32349
20.....32349
51.....31939
73.....34466
205.....36934
211.....31623, 31626, 32196, 32643, 37188
212.....32645, 33052, 34468, 36937
504.....36002
508.....32199
Proposed Rules:
2.....33883
30.....32394
35.....32394
211.....32225
212.....32622
436.....33077
445.....33344
456.....36987
490.....31922, 34965
508.....31677
795.....33632

11 CFR

Proposed Rules:
Ch. I.....32608
Ch. IX.....32608
4.....33368

12 CFR

205.....33837
211.....36005, 36012
213.....36012
217.....32352, 32646, 34097
225.....36012
302.....32353
303.....32649
329.....32353, 32356
526.....33669
531.....33669
545.....32199, 33669
556.....36012
563.....33669
575.....36012
576.....36012
577.....36012
578.....36012
612.....31940
614.....31940
700–760.....33675
701.....32202, 32357, 32358
Proposed Rules:
11.....31984
202.....36398
217.....32395, 32396
309.....34510
329.....32397
335.....33077
523.....36398
526.....33690
531.....36055
541.....36056
545.....33690, 36056, 36057, 36060, 36398
563.....33690, 33094, 36064
613.....36193
614.....36193
616.....36193
701.....32202
742.....33094

13 CFR

123.....36167
303.....32359
304.....32359
307.....32359
311.....32359
Proposed Rules:
121.....35236, 36195
125.....33884
540.....32958, 36988

14 CFR

39.....31941, 31942, 32649, 32650, 33392, 34098–34102, 34911, 34912, 36168, 36169, 36940–36943
71.....31944–31947, 34102–34113, 34913, 36170, 36171, 36943
73.....34111–34114
91.....33389, 33396
97.....31947, 34115
121.....33389, 33396
129.....33389, 33396
207.....33053
208.....33054
212.....33055
214.....33056
221.....33056
228.....36023
288.....34117
302.....32364
323.....33397, 34118
372.....33060
375.....35207
380.....33060
385.....34118
1203.....34913
1214.....36024
Proposed Rules:
Ch. I.....32001, 32708, 32709 33409, 34150
39.....36196, 36197
71.....32001, 32002, 32709, 34150–34152, 34967, 36198–36201
73.....32003
75.....34153
207.....36065
208.....36065
212.....36065
214.....36065
250a.....32398
252.....33410
380.....32399
382.....32401

15 CFR

377.....36375
501.....32651
806.....32586
930.....37142
2301.....31629

16 CFR

1.....36171
13.....31949, 32365, 34922, 34923, 36025
438.....32207, 36172
456.....33061
1118.....34923
1500.....34892
1501.....34892
1700.....34933
Proposed Rules:
Ch. I.....35237
13.....32231, 33097, 33691, 33693, 34511, 36202
305.....32013, 36410
433.....34153
457.....35240
1700.....34968

17 CFR

9.....34934
15.....32209, 33839
17.....33839
18.....33839
140.....33676
200.....32366
201.....35207
202.....35207
211.....33061, 33847, 36156
230.....33362
239.....33362
240.....34884, 36027
249.....34883
270.....36152
274.....36152
Proposed Rules:
210.....36068, 36070
240.....32608, 36070, 36912
249.....36070
270.....36070, 36071
301.....32224
916.....32224

18 CFR

Ch. X.....36027
1.....34936
2.....34936
101.....34471
104.....34471
141.....34471
204.....34471
260.....34471
270.....34472
271.....34473
275.....34475
281.....34941
290.....33847
Proposed Rules:
Ch. I.....32710
35.....33410
154.....33099
201.....33099
204.....33099
271.....34511, 34969
276.....33677
281.....34970
282.....33099

19 CFR

4.....31950, 35208
6.....31950, 35208
10.....31950, 31962, 35208
11.....31962, 35208
18.....31962, 35208
19.....31962, 35208
54.....31962, 35208
101.....34478
111.....31962, 35208
112.....31962, 35208
123.....31950, 35208
133.....31962, 35208
134.....31962, 35208
148.....31962, 35208
151.....31962, 35208
153.....33877, 33878
159.....31972, 33063, 36944
161.....35208
162.....31950, 31962, 35208 36376
171.....31950, 35208
172.....31950, 35208
Proposed Rules:
141.....31668
142.....31668

20 CFR

404.....34479, 34941, 36376
422.....34941
651.....31629
655.....32209, 32211
Proposed Rules:
401.....31668
404.....35241
416.....35241
615.....34512
655.....32233, 33693
676.....33376, 36087, 36410

21 CFR

5.....32212
136.....32213
146.....36377
177.....34493
193.....35208, 35209
310.....36378
314.....33677
430.....33677
446.....31636
520.....32213, 35210, 36380, 36381
561.....35211
610.....36381
660.....36381
Proposed Rules:
2.....33114
20.....33238, 35242
74.....36411
110.....33238, 35242
145.....31669
172.....34513
173.....33693
178.....34513
184.....34515, 36415, 36416
186.....36415
189.....33693
250.....33694
345.....36421

510.....36421
606.....34515
1312.....33695

22 CFR

41.....32653, 36383
211.....34034
Proposed Rules:
6a.....33891

23 CFR

17.....36383
Proposed Rules:
750.....34516
751.....34516
1251.....36204

24 CFR

Ch. X.....33064
300.....34119
445.....33679
570.....33372
841.....32516
1911.....32214, 32215
1912.....32215
1914.....31973, 32654, 32656, 34119, 35212
1915.....33397, 34120, 35213, 36383
1917.....33065, 34121-34123
1931.....36028
Proposed Rules:
570.....32407
803.....31670, 36698
811.....32711
880.....33804
882.....31670, 36698
888.....31670, 35106, 36698
1917.....32003, 33416-33430, 33892-33904, 34154-34166, 35242-35247, 36421-36431
2205.....33697, 34048
3280.....32711

25 CFR

256.....32190

26 CFR

1.....32657, 33398
138.....35217
Proposed Rules:
1.....32235, 36071
7.....32235
31.....32251
48.....35247

27 CFR

Proposed Rules:
4.....32014
5.....32014
7.....32014
178.....32366

28 CFR

2.....31637, 31638, 34494
14.....33399
45.....36028
301.....34943
540.....35956
Proposed Rules:
2.....32252, 36077

29 CFR

451.....33066
92.....33697
1601.....31638
1613.....34494
1952.....33066, 36384
2520.....31639, 31640, 33708
Proposed Rules:
Ch.XXV.....34517
Ch.XXVI.....36433
1601.....36432
1910.....31670
2520.....36432, 36862
2560.....36862

30 CFR

Ch. VII.....35192, 36385
11.....33067
55.....31908, 36385
56.....31908, 36385
57.....31908, 36385
211.....33640-33655
715.....36886
717.....36886
Proposed Rules:
Ch. VII.....32408
716.....33626

31 CFR

306.....34124
Proposed Rules:
13.....36988

32 CFR

Ch. XIV.....32681
67.....34495
68.....33399, 34495
195a.....33399
199.....33679
263.....33399
288.....36029
354.....36032
360.....36033
362.....36033
367.....34944
505.....32367, 36386
644.....35219
770.....32408
806a.....32681
807a.....32681
842.....35220
888.....36944
1201.....31976
1203.....31976
1212.....31976
1214.....31976
1216.....31976
1220.....31976
1221.....31976
1250.....31976
2000.....34129
2001.....34129
Proposed Rules:
41.....35248

33 CFR

3.....33399
80.....34129
95.....34129
100.....36174
117.....34130
161.....36174
164.....32681
165.....36175
240.....36175
401.....33402, 36175
Proposed Rules:
110.....32713
117.....33431, 36206
157.....32713
161.....32004, 33710, 34167
164.....32713, 33432
209.....34519
401.....35256

36 CFR

7.....35222
Proposed Rules:
Ch. II.....33711
219.....32715
223.....32005

38 CFR

Proposed Rules:
Ch. I.....34971
1.....34975
21.....34977

39 CFR

Ch. III.....33880
10.....32369
111.....32369, 33068, 33879, 34497
10.....31976
111.....31976
257.....33880
601.....31976, 32369
Proposed Rules:
111.....36434
775.....36991

40 CFR

6.....32854
51.....35176
52.....31976, 31980, 32681, 33680, 33681, 35223, 35224
60.....33580
65.....32682, 32683, 33681-33683, 33881, 35224, 35225
80.....33069
115.....32854
121.....32854
122.....32854
123.....32854
124.....32854
125.....32854, 34784
162.....32684
180.....35226
402.....32854
403.....32854
407.....36033
600.....35227
1517.....34944
Proposed Rules:
Ch. I.....33332, 33433, 35262
6.....35158
52.....32005, 32253, 33116, 33433, 33437, 33438, 33712, 33713, 33905, 34519, 35263, 35264, 36206, 36434
60.....34840, 35265, 35952
65.....32254, 32255, 32715, 32716, 32720, 33911, 34520-34522, 35268-35278, 36435
66.....34524, 36437
67.....34524, 36437
80.....33116
81.....34603, 36434
86.....34603
100.....32006, 36437
122.....31673, 34244, 34393
123.....31673, 34244, 34393
124.....31673, 34393
125.....34393
146.....31673
250.....36997
762.....34167

41 CFR

Ch. 9.....34424
Ch. 18.....32684, 32685, 32687
1.....36386
1-7.....34498
1-10.....34498
1-16.....34498
2.....36386
3.....36386
3-1.....36960
3-3.....36960
3-4.....36960
3-5.....36960
3-7.....36960
3-11.....36960
3-16.....36960
3-30.....36960
3-50.....33069, 36960
3-56.....36960
7.....36386
7-1.....33684
16.....32685
20.....32685, 36386
25.....32685, 36386
101-11.....34499
Proposed Rules:
Ch. 51.....32011
101-17.....33714
101-18.....33714
101-19.....33714

42 CFR

57.....32698
405.....31641, 31802
466.....32074
Proposed Rules:
51g.....33913
55a.....33913
110.....36864
431.....33913, 34605

43 CFR

420.....34909, 36974
Public Land Orders:
2883 (Revoked by PLO 5665).....34131
3300.....36386
3501 (Revoked by PLO 5664).....34131
3574 (Revoked by PLO 5664).....34131
3814 (Revoked by PLO 5664).....34131
5664.....34131
5665.....34131
8340.....34834

44 CFR

Proposed Rules:
67.....36997-37002

45 CFR

5a.....31981
57.....36175, 36178
90.....33768
670.....32699
1061.....34946, 36974
1067.....36181
1611.....31981
Proposed Rules:
Ch. II.....34606
71.....34754, 34780
116a.....34167
122a.....37164
160b.....37134
160g.....35186
161c.....35186
161d.....33036
161f.....37184
161i.....34024
161j.....33022
161l.....37170
161n.....33028

184.....36908
193.....37178
195.....37134
205.....33913, 34606
228.....33913
233.....35278

46 CFR

25.....34132
34.....34132
76.....34132
95.....34132
108.....34132
162.....34132
181.....34132
193.....34132
502.....32369
512.....32369
521.....36077
522.....36077
531.....32369

Proposed Rules:

Ch. I.....34443
30.....32713, 34440
31.....32720
32.....32713, 34440
34.....32713
35.....32720, 34440
201.....37003
208.....37003
251.....37003
536.....32408
537.....33913
538.....32408

47 CFR

0.....32377, 34947
1.....31643, 31650, 34947
2.....32377, 34133
73.....33070, 36034, 36386
74.....32377, 34133, 36034
78.....32377, 34133
81.....31650, 33071, 36041
83.....32383, 36041, 36974
90.....32215, 34133
201.....33404
202.....33404

Proposed Rules:

0.....32419
15.....37008
18.....32419
73.....31673, 32419, 33120–33126, 33439, 33440, 34170, 34979–34981, 36080–36082, 37014
74.....32420, 34606
76.....37014
78.....32420, 34606
83.....36082, 37015
87.....36085
90.....31674, 33441, 36209
94.....32720

49 CFR

171.....34960
265.....36338
393.....31981
395.....34960
533.....36975
571.....33441, 33444
601.....32705
831.....34418
845.....34418
1003.....36389
1033.....31982, 31983, 32221, 32384, 35227, 36183–36185
1041.....33684
1047.....33684
1056.....32384
1082.....33684
1125.....35228
1132.....36389
1307.....33071
1310.....33071

Proposed Rules:

Ch. X.....32427
110–189.....36211
171.....36211
172.....32972, 34171, 36211, 37017
173.....36211, 37017
174.....36211, 37017
176.....36211
177.....36211, 37017
178.....36211, 37017
179.....36211
222.....34982
392.....34992
393.....34992
399.....34992
830.....34422
1039.....33714
1056.....34994
1252.....33716
1300.....32011

50 CFR

17.....32604, 37124, 37130
32.....33072
34.....33073
216.....34963
263.....32385
264.....32388
266.....32391
285.....36043, 36054, 36393
371.....33684
450.....33127
452.....33127
453.....33127
611.....31651, 31652
652.....36393
661.....31983
662.....31654
674.....33250

Proposed Rules:

17.....33915
20.....34082
70.....33915
410.....33127
611.....34607, 37022
652.....34171
661.....32012
810.....31858, 33916

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
DOT/UMTA*	MSPB/OPM		DOT/UMTA*	MSPB/OPM
DOT/FRA*	LABOR		DOT/FRA*	LABOR
CSA	HEW/FDA		CSA	HEW/FDA

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

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

***NOTE: As of June 14, 1979, the Urban Mass Transportation Administration and Federal Railroad Administration, Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

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

Rules Going Into Effect Today

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

30332 5–25–79 / Antibiotic drugs miscellaneous minor provisions

30333 5–25–79 / Chlorofluorocarbon propellants in self-pressurized containers; essential use provisions

30334 5–25–79 / Provisions for high pressure liquid chromotography assay for vidarabine

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

30260 5–24–79 / Community Development Block Grant Program; environmental review procedures

TRANSPORTATION DEPARTMENT

Coast Guard—

30094 5–24–79 / Appointment and admission of professors and cadets to Coast Guard Academy; merchant marine officers

33399 6–11–79 / Realignment of MIO/COTP boundaries, Second and Ninth Coast Guard Districts

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing June 21, 1979