

Federal Register

Highlights

- 749 **Natural Gas** DOE/ERA removes certain compliance rules because of repeal of prohibition against use of natural gas by existing electric powerplants.
- 884 **Motor Vehicle Safety** DOT/NHTSA issues interpretation on preemption of State approval programs and pre-sale State enforcement of safety standards.
- 750 **Mortgages** FRS issues final version of HMDA-1 disclosure and reporting form.
- 916 **HUD/FHC** issues interim rule on changes in maximum single family mortgage amounts. (Part III of this issue)
- 908 **Educational Study Programs** ED proposes changes to funding procedures for National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant programs. (Part II of this issue)
- 928 **Surface Mining** Interior/SMREO proposes regulations on mining which affects previously mined lands. (Part IV of this issue)
- 751 **Banking** FRS defers mandatory compliance date for consumer leasing and truth in lending rules.

CONTINUED INSIDE



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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

- 846 **Uranium** DOE/Sec'y requests comments on proposed pricing policy changes for sale of uranium depleted in isotope U-235.
 - 827 **Disaster Assistance** FEMA proposes regulations on temporary housing assistance.
 - 826 **Marine Safety** DOT/CG withdraws proposal on navigation lights for small vessels.
 - 756 **Aircraft** DOT/FAA amends definition of "acoustical change" in aircraft noise certification rules.
 - 747 **Fruits** USGA/AMS amends imported ripe olive size and grade requirements.
 - 885 **Grant Programs—Transportation** DOT/UMTA announces institutions selected to offer managerial training grant short courses.
 - 822 **Marksmanship** DOD/Army proposes regulations on instruction of civilians in marksmanship.
 - 764 **Gasoline** EPA amends testing procedure for determination of lead content in gasoline.
 - 886 **Treasury Bonds** Treasury/Sec'y announces interest rate on Bonds of 2002.
 - 859 **Privacy Act Document** Interior
 - 887 **Sunshine Act Meetings**
- Separate Parts of This Issue**
- 908 Part II, ED
 - 916 Part III, HUD/FHC
 - 928 Part IV, Interior/SMREO
 - 932 Part V, OMB

Contents

Federal Register

Vol. 47, No. 4

Thursday, January 7, 1982

- Agency for International Development**
NOTICES
Authority delegations: 840
Africa, Mission Directors et al.; grant functions; redelegation 841
872 Asia, Mission Directors; grant functions; redelegation
873 Latin America/Caribbean, Mission Directors et al.; grant functions; redelegation 826
873 Near East, Mission Directors et al.; grant functions; redelegation 881
879
- Agricultural Marketing Service**
RULES
747 Olives, imported; interim rule and request for comments
746 Oranges (navel) grown in Arizona and California
PROPOSED RULES
Milk marketing orders:
778, Eastern Colorado et al. (2 documents) 814
- Agriculture Department**
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Forest Service; Soil Conservation Service.
RULES
745 Reporting and recordkeeping requirements
- Animal and Plant Health Inspection Service**
NOTICES
Meetings: 874
839 Boll Weevil eradication program; assessment of effectiveness 875
874 Lee Laboratories, Inc. 875
875 McNeilab, Inc. 875
- Army Department**
See also Engineers Corps.
PROPOSED RULES
822 Military education; promotion of rifle practice 749
NOTICES
Meetings:
843 Science Board
- Arts and Humanities, National Foundation**
NOTICES
Meetings:
875 Media Arts Advisory Panel
875 Music Advisory Panel
- Census Bureau**
NOTICES
842 Surveys, determinations, etc.:
Retail sales and inventories
- Civil Aeronautics Board**
RULES
Air carriers:
761, Stock ownership reports; exemption (2 documents) 762
- NOTICES**
Hearings, etc.:
Arista International Airlines fitness proceeding
Braniff Airways, Inc.
- Coast Guard**
PROPOSED RULES
Navigation safety regulations:
Lights for small vessels; withdrawn 826
NOTICES
Citizenship oath filing:
881 Schlumberger Technology Corp.
879 Port access routes; study results
- Commerce Department**
See Census Bureau.
- Commodity Futures Trading Commission**
NOTICES
887 Meetings; Sunshine Act
- Defense Department**
See also Army Department; Engineers Corps.
Meetings:
844 Armed Forces Epidemiological Board (2 documents)
- Drug Enforcement Administration**
NOTICES
Registration applications, etc.; controlled substances:
874 Burroughs Wellcome Co.
875 Eli Lilly Industries, Inc.
874 Lee Laboratories, Inc.
875 McNeilab, Inc.
- Economic Regulatory Administration**
RULES
Powerplant and industrial fuel use:
749 Electric utility system compliance option and special rule for temporary public interest exemption; removal
NOTICES
Consent orders:
844 Guam Oil & Refining Co., Inc.
Natural gas; fuel oil displacement certification applications:
845 Consolidated Edison Co. of New York, Inc.
- Education Department**
PROPOSED RULES
Postsecondary education:
908 National direct student loan, college work-study, and supplemental educational opportunity grant programs; funding procedures
NOTICES
Meetings:
844 Financing Elementary and Secondary Education Advisory Panel

- Energy Department**
See also Economic Regulatory Administration;
 Energy Research Office.
- PROPOSED RULES**
- 817 Coal leasing, Federal; diligence requirements;
 submission of comments to Geological Survey;
 cross reference
- NOTICES**
- 846 Committees; establishment, renewals, terminations,
 etc.:
- 846 National Petroleum Council Advisory Committee
- 846 Uranium depleted in isotope U-235 (tails); sale
 pricing policy change; request for comments
- Energy Research Office**
- NOTICES**
- Meetings:
- 845, Energy Research Advisory Board (2 documents)
 846
- Engineers Corps**
- NOTICES**
- Environmental statements; availability, etc.:
- 843 Ararat River, N.C.; flood control project
- 843 Kansas-Osage study, Kans.; fish hatchery
 construction
- Environmental Protection Agency**
- RULES**
- Air programs; fuel and fuel additives:
- 764 Lead-in-gasoline test procedure; optional
 automated method
- Air quality implementation; approval and
 promulgation; various States, etc.:
- 762 Connecticut
- 763 New Hampshire
- NOTICES**
- Air pollution control; new motor vehicles and
 engines:
- 849 California pollution control standards and test
 procedures; heavy-duty engines and emissions
 from motorcycles, etc.; inquiry
- 848 California pollution control standards; 1982
 model year vehicles; assembly-line test
 procedures
- Toxic and hazardous substances control:
- 847, Premanufacture notification requirements; test
 850 marketing exemption approvals (2 documents)
- Federal Aviation Administration**
- RULES**
- Aircraft products and parts, certification:
- 756 Noise requirements; voluntary changes in type
 design; turbojet engine power
- Airworthiness directives:
- 759 Sikorsky; final rule and request for comments
- 759, Transition areas (3 documents)
 760
- PROPOSED RULES**
- Air traffic operating and flight rules:
- 818 Ferry flights with one engine inoperative;
 authorization
- 817 Rulemaking petitions; summary and disposition
- NOTICES**
- 882 Exemption petitions; summary and disposition
- Meetings:
- 881 Traffic Alert and Collision Avoidance System
 (TCAS) Conference
- Organization and functions:
- 881 Augusta, Ga., Airport Traffic Control Tower;
 reduction of hours
- Federal Communications Commission**
- PROPOSED RULES**
- Communications equipment:
- 836 Radio frequency devices; electronic coin-
 operated games; reclassification from Class B to
 Class A computing device; extension of time
- Radio stations; table of assignments:
- 837 Minnesota; extension of time
- NOTICES**
- Hearings, etc.:
- 851 Message Center, Inc., et al.; correction
- 851 Vacationland Broadcasting Co., Inc., et al.
- 887 Meetings; Sunshine Act (2 documents)
- Federal Election Commission**
- NOTICES**
- 887 Meetings; Sunshine Act
- Federal Emergency Management Agency**
- RULES**
- Flood elevation studies; consultation with local
 officials
- Flood insurance; special hazard areas:
- 769 California
- Flood insurance; special hazard areas; map
 corrections:
- 771 Arizona
- 772 Maryland
- 772 Texas
- PROPOSED RULES**
- 827 Housing assistance, temporary
- NOTICES**
- 852 Radiological emergency; State plans;
 South Carolina
- Federal Housing Commissioner—Office of
 Assistant Secretary for Housing**
- RULES**
- Mortgage and loan insurance programs:
- 916 Maximum mortgage amounts; single family limits;
 interim rule and request for comments
- Federal Maritime Commission**
- NOTICES**
- 887 Meetings; Sunshine Act
- Federal Reserve System**
- RULES**
- 751 Consumer leasing and truth in lending (Regulations
 M and Z); deferral effective date
- 750 Home mortgage disclosure (Regulation C); final
 HMDA-1 form
- NOTICES**
- 888 Meetings; Sunshine Act
- Forest Service**
- NOTICES**
- Environmental statements; availability, etc.:
- 839 Hiawatha National Forest; land and resource
 management plan, Michigan
- 840 Homestake Phase II Transmountain Water
 Diversion Project, White River National Forest,
 Eagle County, Colo.

- Geological Survey**
PROPOSED RULES
 819 Coal leasing, Federal; diligence requirements; revestment of rulemaking authority and submission of comments
NOTICES
 Committees; establishment, renewals, terminations, etc.:
 769
 854 National Earthquake Prediction Evaluation Council
 Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
 Aminoil USA, Inc.
 853 Amoco Production Co.
 854 Diamond Shamrock Corp.
- Health and Human Services Department**
NOTICES
 Organization, functions, and authority delegations:
 853 National Institutes of Health, National Aging Institute
- Historic Preservation, Advisory Council**
NOTICES
 839 Meetings; cancellation
- Housing and Urban Development Department**
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.
- Indian Affairs Bureau**
NOTICES
 Irrigation projects; operation and maintenance charges:
 854 Fort Hall Irrigation Project, Idaho
- Interior Department**
See also Geological Survey; Indian Affairs Bureau; Land Management Bureau; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.
NOTICES
 859 Privacy Act; systems of records
- International Development Cooperation Agency**
See Agency for International Development.
- Interstate Commerce Commission**
RULES
 Motor carriers:
 777 Household goods carriers operational practices; correction
 Railroad car service orders; various companies:
 776 Burlington Northern Railroad Co. et al.
 773 Chicago, Rock Island & Pacific Railroad Co.; track use by various railroads
NOTICES
 Agreements under sections 5a and b, applications for approval, etc.:
 871 National Railroad Freight Committee
 Motor carriers:
 869 Agricultural cooperative transportation; filing notices
 870 Permanent authority applications; restriction removals
 Railroad services abandonment:
 872 Baltimore & Ohio Railroad Co.
- Justice Department**
See Drug Enforcement Administration.
- Land Management Bureau**
RULES
 Public land orders:
 Montana
NOTICES
 Authority delegations:
 858 Utah districts Area Managers; sale or contract for sale of material other than forest products; redelegation
 Classification of public lands:
 857 Utah
 Environmental statements; availability, etc.:
 858 Frontier Pipeline Project, Anschutz Ranch Field, Uinta County, to Casper, Wyo.
 857 Rio Blanco County, Colo.; coal lease application; hearing
 Meetings:
 855 Prineville District Advisory Council
 857 Socorro District Grazing Advisory Board
 Opening of public lands:
 859 Oregon
 855 Washington
 Withdrawal and reservation of lands, proposed, etc.:
 856 Colorado
- Management and Budget Office**
NOTICES
 932 Cost principles for educational institutions (Circular A-21); proposed revision
- Maritime Administration**
NOTICES
 Applications, etc.:
 883 American President Lines, Ltd.
- Mississippi River Commission**
NOTICES
 888 Meetings; Sunshine Act
- National Credit Union Administration**
NOTICES
 888 Meetings; Sunshine Act
- National Highway Traffic Safety Administration**
NOTICES
 Motor vehicle safety standards:
 884 State safety approval programs, preemption; interpretation
- National Transportation Safety Board**
RULES
 Reporting requirements
NOTICES
 876 Accident reports, safety recommendations and responses, etc.; availability
- Native Hawaiians Study Commission**
NOTICES
 876 Meetings and hearings
- Nuclear Regulatory Commission**
NOTICES
 Applications, etc.:
 877 Carolina Power & Light Co.
 877 Northeast Nuclear Energy Co. et al.

- 878 Northern States Power Co.
 878 Pacific Gas & Electric Co.
 878 Public Service Electric & Gas Co. et al.
 888 Meetings; Sunshine Act (2 documents)
 Reports; availability, etc.:
- 879 Radioactive waste, high-level; documentation of models used in waste disposal analysis; draft technical position

Reclamation Bureau**NOTICES**

- Environmental statements; availability, etc.:
- 859 Tucson Aqueduct Phase A, Central Arizona Project, Ariz.; hearing

Saint Lawrence Seaway Development Corporation**NOTICES**

- Meetings:
- 885 Advisory Board

Securities and Exchange Commission**NOTICES**

- 879 Self-regulatory organizations; proposed rule changes:
 American Stock Exchange, Inc.

Soil Conservation Service**NOTICES**

- Watershed assistance to local organizations, authorizations:
- 840 Texas

Surface Mining Reclamation and Enforcement Office**PROPOSED RULES**

- Permanent and interim regulatory programs, etc.:
- 928 Steep-slope mining; new operations affecting previously mined lands which do not generate sufficient spoil to completely backfill highwall
- Permanent program submission; various States:
- 820 Kentucky; resubmission, hearings, etc.

Tennessee Valley Authority**NOTICES**

- 889 Meetings; Sunshine Act

Textile Agreements Implementation Committee**NOTICES**

- 842 Textile program; apparel entireties visa requirements; procedure to obtain waivers from correct category provision

Transportation Department

See Coast Guard; Federal Aviation Administration; Maritime Administration; National Highway Traffic Safety Administration; Saint Lawrence Seaway Development Corporation; Urban Mass Transportation Administration.

Treasury Department**NOTICES**

- Bonds, Treasury:
- 886 2002 series

Urban Mass Transportation Administration**NOTICES**

- 885 Managerial training grant short courses (Section 10)
 Grants; availability, etc.:
- 886 New bus equipment introduction program; correction

MEETINGS ANNOUNCED IN THIS ISSUE**AGRICULTURE DEPARTMENT**

- Animal and Plant Health Inspection Service—
- 839 Boll Weevil Program, Fayetteville, N.C. (open), 1-15-82
- 875 Arts and the Humanities, National Foundation National Council on the Arts, Media Arts Panel (Production: Film/Video), Washington, D.C. (closed), 1-25 through 1-27-82
- 875 National Council on the Arts, Music Panel (Recording), Washington, D.C. (closed), 1-19-82

DEFENSE DEPARTMENT**Army Department—**

- 844 Armed Forces Epidemiological Board, Washington, D.C. (open), 2-3-82
- 844 Armed Forces Epidemiological Board, Washington, D.C. (partially open), 2-4 and 2-5-82
- 843 Army Science Board, Washington, D.C. (closed), 1-28 and 1-29-82

ENERGY DEPARTMENT**Energy Research Office—**

- 845 Energy Research Advisory Board, Conservation Panel, Washington, D.C. (open), 1-22-82
- 846 Energy Research Advisory Board, Multiprogram Lab Panel, Washington, D.C. (open), 1-18-82

INTERIOR DEPARTMENT**Geological Survey—**

Diligence Requirements for Federal Coal Leases, all meetings open:

- 819 Salt Lake City, Utah, 1-11-82
- 819 Casper, Wyo., 1-13-82
- 819 Farmington, N. Mex., 1-15-82

Land Management Bureau—

- 858 Frontier Pipeline Project, Wyoming locations (open), 2-8-82
- 855 Prineville District Advisory Council, Prineville, Oreg. (open), 2-18-82
- 857 Socorro District Grazing Advisory Board, Socorro, N. Mex. (open), 2-9-82
- 876 Native Hawaiians Study Commission Honolulu, Oahu, 1-9-82

TRANSPORTATION DEPARTMENT**Federal Aviation Administration—**

- 881 Traffic Alert and Collision Avoidance System, Washington, D.C. (open), 1-11 and 1-12-82
- Saint Lawrence Seaway Development Corporation—
- 885 Advisory Board, Washington, D.C. (open), 1-22-82

CANCELLED MEETINGS**EDUCATION DEPARTMENT**

- 844 Financing Elementary and Secondary Education Advisory Panel, Boston, Mass. (open), 1-19-82
- 839 Historic Preservation, Advisory Council "Protection of Historic and Cultural Properties," Petersburg, Va., 1-8-82

HEARINGS**INTERIOR DEPARTMENT**

Surface Mining Reclamation and Enforcement Office—

- 820 Kentucky Permanent Regulatory Program, Lexington, Ky., 1-26-82

NATIVE HAWAIIANS STUDY COMMISSION

- 876 Kaunakakai, Moloka'I, 1-10-82; Kahalui, Maui, 1-11-82; Kamuela, Hawaii, 1-12-82; Hilo, Hawaii, 1-12-82; Lihu'e, Kaua'I, 1-13-82; Honolulu, O'Ahu, 1-14-82; Wai-Anae, O'Ahu, 1-15-82; Honolulu, O'Ahu, 1-15-82

CANCELLED HEARINGS**EDUCATION DEPARTMENT**

- 844 Financing Elementary and Secondary Education Advisory Panel, Boston, Mass., 1-18-82

ENERGY DEPARTMENT

Leasing Policy Development Office—
(See entry under Interior Department.)

INTERIOR DEPARTMENT

Geological Survey—

- 819 Diligence Requirements for Federal Coal Leases, Denver, Colo., 2-17-82

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	80.....764
	81.....763
Executive Orders:	
November 14, 1912	
(Revoked by	
PLO 6101).....	769
7 CFR	
Subtitle B.....	745
907.....	746
944.....	747
Proposed Rules:	
1006.....	814
1012.....	814
1013.....	814
1033.....	814
1036.....	814
1040.....	814
1124.....	814
1125.....	814
1133.....	814
1134 (2 documents)....	778, 814
1135.....	814
1136 (2 documents)....	778, 814
1137 (2 documents)....	778, 814
1139.....	814
9 CFR	
Ch. I.....	745
Ch. II.....	745
Ch. III.....	745
10 CFR	
504.....	749
508.....	749
Proposed Rules:	
378.....	817
12 CFR	
203.....	750
213.....	755
226.....	755
14 CFR	
21.....	756
39.....	759
71 (3 documents).....	759, 760
245.....	761
246.....	762
Proposed Rules:	
Ch. I.....	817
91.....	818
24 CFR	
203.....	916
234.....	916
30 CFR	
Proposed Rules:	
Ch. VII.....	820
211.....	819
716.....	928
826.....	928
32 CFR	
Proposed Rules:	
543.....	822
33 CFR	
Proposed Rules:	
88.....	826
89.....	826
34 CFR	
Proposed Rules:	
674.....	908
675.....	908
676.....	908
36 CFR	
Ch. II.....	745
40 CFR	
52 (2 documents).....	762, 763

Rules and Regulations

Federal Register

Vol. 47, No. 4

Thursday January 7, 1982

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.

human nutrition. The reporting requirements in that notice have been assigned OMB Control No. 0531-0009.

Text of the Amendments

Following the text of each section of Title 7, cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column:

DEPARTMENT OF AGRICULTURE

Office of Secretary

7 CFR Subtitle B

9 CFR Chs. I, II, and III

36 CFR Ch. II

OMB Control Numbers in USDA Regulations

AGENCY: Department of Agriculture.

ACTION: Technical amendments.

SUMMARY: This document amends USDA regulations to include OMB control numbers at the places in the regulations where current information collection requirements are described. It also adds a control number to a document published in the Federal Register on December 18, 1981.

EFFECTIVE DATE: January 7, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Schrimper, Statistical Reporting Service, Department of Agriculture, Washington, D.C. Telephone: 202-447-6201.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and assigned the control numbers contained in the listing.

Addition of OMB Control Number to SEA Document

On December 18, 1981 (46 FR 61822), the Science and Education Administration, USDS, published a solicitation for applications for competitive grants in plant biology and

CFR citation	OMB control No.	CFR citation	OMB control No.
Sec.		46.19	0581-0031
101.16	0581-0027	46.21	0581-0031
101.17	0581-0027	46.22	0581-0031
101.19	0581-0027	46.24	0581-0031
101.28	0581-0027	46.25	0581-0031
101.33	0581-0027	46.28	0581-0031
101.36	0581-0027	46.29	0581-0031
101.47	0581-0027	46.31	0581-0031
101.49	0581-0027	46.32	0581-0031
102.18	0581-0027	29.9407	0581-0056
102.20	0581-0027	70.76	0583-0024
102.22	0581-0027	70.77	0583-0024
102.29	0581-0027	59.200	0583-0046
102.30	0581-0027	59.504	0583-0046
102.34	0581-0027	59.530	0583-0046
102.37	0581-0027	59.575	0583-0046
102.38	0581-0027	59.600	0583-0046
102.54	0581-0027	59.610	0583-0046
103.16	0581-0027	59.720	0583-0046
103.17	0581-0027	58.139	0583-0047
103.19	0581-0027	58.148	0583-0047
103.24	0581-0027	58.322	0583-0047
103.28	0581-0027	58.441	0583-0047
103.39	0581-0027	724.105	0560-0001
103.40	0581-0027	725.98	0560-0001
103.41	0581-0027	725.111	0560-0001
104.16	0581-0027	726.92	0560-0001
104.17	0581-0027	729.66	0560-0006
104.19	0581-0027	729.71	0560-0012
104.28	0581-0027	1446.1	0560-0024
104.29	0581-0027	724.105	0560-0028
106.16	0581-0027	725.98	0560-0028
106.17	0581-0027	725.111	0560-0028
106.19	0581-0027	726.92	0560-0028
106.30	0581-0027	1475.68	0560-0029
106.37	0581-0027	1425.17	0560-0040
106.39	0581-0027	1474.18	0560-0055
106.48	0581-0027	722.90	0560-0056
106.54	0581-0027	725.103	0560-0058
107.18	0581-0027	725.104	0560-0058
107.19	0581-0027	730.34	0560-0088
107.21	0581-0027	1421.290	0560-0091
107.31	0581-0027	1435.12	0560-0093
107.33	0581-0027	724.105	0560-0099
107.43	0581-0027	725.98	0560-0099
107.45	0581-0027	725.111	0560-0099
107.51	0581-0027	726.92	0560-0099
107.55	0581-0027	1823.285	0575-0013
108.16	0581-0027	1823.285	0575-0014
108.17	0581-0027	1942.17	0575-0015
108.19	0581-0027	1924.58	0575-0061
108.27	0581-0027	1948-A Exhibit A	0575-0034
108.29	0581-0027	1948-B Exhibits A and B	0575-0040
108.33	0581-0027	1944.555	0575-0046
108.35	0581-0027	1944.559	0575-0046
108.42	0581-0027	401.111	0563-0001
108.47	0581-0027	409.35	0563-0002
111.17	0581-0027	403.7	0563-0004
111.18	0581-0027	402.7	0563-0006
111.20	0581-0027	800.19	0580-0001
111.31	0581-0027	800.25	0580-0001
111.33	0581-0027	800.76	0580-0001
111.41	0581-0027	800.145	0580-0001
111.44	0581-0027	800.146	0580-0001
111.52	0581-0027	800.149	0580-0001
111.56	0581-0027	800.150	0580-0001
46.14	0581-0031	800.151	0580-0001
46.15	0581-0031	800.152	0580-0001
46.18	0581-0031	800.153	0580-0001
		800.154	0580-0001
		800.155	0580-0001
		800.160	0580-0001
		800.166	0580-0001
		215.7	0584-0005
		215.11	0584-0005
		215.12	0584-0005
		215.14	0584-0005
		210.7	0584-0006
		250.5	0584-0007
		250.6	0584-0007
		250.8	0584-0007
		250.15	0584-0007
		220.3	0584-0012
		220.7	0584-0012

CFR citation	OMB control No.
220.8	0584-0012
220.13	0584-0012
220.14	0584-0012
220.16	0584-0012
245.4	0584-0026
245.7	0584-0026
246.15	0584-0043
245.10	0584-0046
210.11	0584-0050
215.6	0584-0050
220.9	0584-0050
227.4	0584-0062
227.30	0584-0062
227.31	0584-0062
247.3	0584-0063
247.5	0584-0063
247.6	0584-0063
247.8	0584-0063
247.9	0584-0063
247.13	0584-0063
247.14	0584-0063
247.15	0584-0063
247.19	0584-0063
247.20	0584-0063
247.21	0584-0063
230.12	0584-0066
230.14	0584-0066
230.15	0584-0066
283.5	0584-0071
283.7	0584-0071
283.8	0584-0071
283.9	0584-0071
225.11	0584-0015
225.19	0584-0015
225.20	0584-0115
225.22	0584-0115
6.28	0551-0001
1493.14	0551-0004
17.6	0551-0005
20.6	0551-0007
1487.15	0551-0010
1491.8	0551-0012
17.17	0551-0008
17.17	0551-0009
1701 Appendix A	0572-0002
1701 Appendix A	0572-0003
1701 Appendix A	0572-0012
1200.3	0535-0018

Following the text of each part of Title 7, cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column:

CFR citation	OMB control No.
Sec.	
201	0581-0026
401	0563-0003 and 0563-0007
402	0563-0003 and 0563-0007
403	0563-0003 and 0563-0007
404	0563-0003 and 0563-0007
405	0563-0003 and 0563-0007
406	0563-0003 and 0563-0007
407	0563-0003 and 0563-0007
408	0563-0003 and 0563-0007
409	0563-0003 and 0563-0007
410	0563-0003 and 0563-0007
411	0563-0003 and 0563-0007
412	0563-0003 and 0563-0007
413	0563-0003 and 0563-0007
414	0563-0003 and 0563-0007
415	0563-0003 and 0563-0007
416	0563-0003 and 0563-0007
417	0563-0003 and 0563-0007
418	0563-0003 and 0563-0007
419	0563-0003 and 0563-0007
420	0563-0003 and 0563-0007
421	0563-0003 and 0563-0007
422	0563-0003 and 0563-0007
423	0563-0003 and 0563-0007
424	0563-0003 and 0563-0007
425	0563-0003 and 0563-0007
426	0563-0003 and 0563-0007
427	0563-0003 and 0563-0007
428	0563-0003 and 0563-0007
429	0563-0003 and 0563-0007
430	0563-0003 and 0563-0007

CFR citation	OMB control No.
431	0563-0003 and 0563-0007
432	0563-0003 and 0563-0007
433	0563-0003 and 0563-0007
434	0563-0003 and 0563-0007
435	0563-0003 and 0563-0007
436	0563-0003 and 0563-0007
437	0563-0003 and 0563-0007
438	0563-0003 and 0563-0007
439	0563-0003 and 0563-0007
440	0563-0003 and 0563-0007
441	0563-0003 and 0563-0007
442	0563-0003 and 0563-0007

Following the text of each part of Title 9, cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column:

CFR citation	OMB control No.
Part	
350	0583-0036
351	0583-0036
352	0583-0036
353	0583-0036
354	0583-0036
355	0583-0036
356	0583-0036
357	0583-0036
358	0583-0036
359	0583-0036
360	0583-0036
361	0583-0036
362	0583-0036

Following the text of each section of Title 9, cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column:

CFR citation	OMB control No.
Sec.	
201.42	0581-0024
201.43	0581-0024
201.45	0581-0024
201.46	0581-0024
201.49	0581-0024
201.50	0581-0024
201.89	0581-0024
201.95	0581-0024
201.99	0581-0024
201.101	0581-0024
201.107	0581-0024
201.200	0581-0024
203.4	0581-0024
203.15	0581-0024
203.16	0581-0024
2.75	0579-0028, 0579-0037, and 0579-0038
2.76	0579-0028, 0579-0037, and 0579-0038
2.77	0579-0028, 0579-0037, and 0579-0038
2.78	0579-0028, 0579-0037, and 0579-0038
2.79	0579-0028, 0579-0037, and 0579-0038
2.80	0579-0028, 0579-0037, and 0579-0038
2.81	0579-0028, 0579-0037, and 0579-0038
145.2	0579-0057
145.4	0579-0057
147.26	0579-0057
147.32	0579-0057
147.33	0579-0057
11.21	0579-0058
103.2	0579-0059
113.5	0579-0059
113.250	0579-0059
114.5	0579-0059
116.1	0579-0059

CFR citation	OMB control No.
116.2	0579-0059
116.3	0579-0059
116.4	0579-0059
116.6	0579-0059
116.8	0579-0059
92.4	0579-0060
92.11	0579-0060
73.7	0579-0061
381.175	0583-0008
303.1	0583-0015
309.16	0583-0015
320.1	0583-0015

Following the text of each part or section of Title 36, cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column:

CFR citation	OMB control No.
Part	
251	0596-0061
251	0596-0062
Sec.	
221.11	0596-0008
214.5	0596-0020
223.10	0596-0021

(44 U.S.C. 3506)

Signed at U.S. Department of Agriculture, Washington, D.C. 20250, December 31, 1981.

Raymond D. Lett,

Executive Assistant to the Secretary.

[FR Doc. 82-328 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 535; Navel Orange Reg. 534, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 8-January 14, 1982, and increases the quantity of such oranges that may be so shipped during the period January 1-January 7, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective January 8, 1982, and the amendment is effective for the period January 1-7, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Findings.

This rule has been reviewed under Secretary's Memorandum 1512-1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981-82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on January 5, 1982 at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges has improved.

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

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 907.835 is added as follows:

§ 907.835 Navel Orange Regulation 535.

The quantities of navel oranges grown in Arizona and California which may be handled during the period January 8, 1982, through January 14, 1982, are established as follows:

- (1) District 1: 940,000 cartons;
- (2) District 2: 60,000 cartons;
- (3) District 3: Unlimited cartons;
- (4) District 4: Unlimited cartons.

2. Section 907.834 Navel Orange Regulation 534 (46 FR 83204), is hereby amended to read:

§ 907.834 Navel Orange Regulation 534.

- (1) District 1: 800,000 cartons;
- (2) District 2: 56,502 cartons;
- (3) District 3: Unlimited cartons;
- (4) District 4: Unlimited cartons.

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

Dated: January 6, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-560 Filed 1-6-82; 11:46 am]

BILLING CODE 3410-02-M

7 CFR Part 944**Fruits: Import Regulations; Imports of Ripe Olives**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule requires that olives imported in bulk form and subsequently used in the production of canned ripe olives meet the same grade and size requirements applicable to imported canned ripe olives. The rule provides for the use of smaller olives in the production of limited use styles (e.g. halved, segmented, sliced and chopped). The action recognizes that ripe olives may be imported in bulk and it is necessary to assure compliance with the olive import regulation.

DATES: Interim rule effective January 11, 1982 through July 31, 1982; comments which are received by February 8, 1982 will be considered prior to issuance of a final rule to become effective on and after August 1, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated persons.

Imports of canned ripe olives are regulated under Olive Regulation 1 (§ 944.401; 46 FR 44733). This rule is issued under § 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This section requires that whenever specified commodities, including olives (other than Spanish-style green olives) are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. Olives grown in California are regulated under the marketing agreement, as amended, and Marketing Order No. 932, as amended (7 CFR Part 932).

The 1981 California olive crop is estimated at 44.0 thousand tons, 60 percent less than last year's crop. This is the off year for this alternate bearing crop. It is anticipated that additional supplies of olives will be imported to augment the domestic supply. In the past ripe olives have been imported as packaged olives. This year the Department has reason to believe that some olives will be imported into the United States in bulk form for later use as canned ripe olives.

Olive Import Regulation 1 requires canned ripe olives to meet minimum grade requirements and canned whole ripe and canned pitted ripe olives to meet certain minimum size requirements. This rule provides that regulations applicable to the importation of canned ripe olives shall apply to olives imported in bulk form and subsequently used in the production of canned ripe olives. It also provides for the use of processed olives smaller than the sizes prescribed for whole and pitted styles in the production of limited use styles of canned ripe olives, including halved, segmented, sliced and chopped. This is necessary to provide the same options to importers as are currently available to handlers of limited use size olives under the marketing order. The

rule requires inspection and certification of imported bulk olives prior to use as canned ripe olives and makes a number of conforming changes in inspection procedure. This regulation is necessary to assure compliance with the olive import regulation.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this interim rule until 30 days after publication in the *Federal Register* (5 U.S.C. 553). Good cause exists for making these regulatory provisions effective as specified in that (1) bulk olives for use in the production of canned ripe olives are expected to be imported into the United States on or about the effective date of this interim rule, (2) the olive import requirements are mandatory under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, and (3) three days notice, the minimum prescribed by section 8e, is provided with respect to this import regulation.

PART 944—FRUIT; IMPORT REGULATIONS

Therefore, in § 944.401 (Olive Regulation 1; as amended at 46 FR 44733) paragraph (a)(1) is amended by adding the definition of "limited use" at the end of the paragraph; paragraph (b) introductory text is revised; paragraph (b)(12) is added thereto; paragraphs (c), (d), (e), (f) and the introductory text to paragraph (j) are revised as follows:

§ 944.401 [Amended]

* * * * *

(a)(1) * * * "Limited use" means the use of processed olives in the production of packaged olives of the halved, sliced, chopped, minced, quartered and segmented styles, as defined in §§ 52.3751-52.3766 of said standards.

* * * * *

(b) On and after the effective date of this section the importation into the United States of any canned ripe olives is prohibited unless such olives are inspected and meet the following applicable requirements: *Provided*, That olives imported in bulk form and used in the production of any canned ripe olives are subject to such applicable requirements and the additional requirements in paragraph (b)(12) of this section. * * *

(12) No person shall use imported bulk olives in the production of canned ripe olives unless they have first been inspected and certified as meeting the requirements of this section: *Provided*, That such olives imported during the period January 11, 1982, through July 31,

1982, may be used for limited use but any such limited use size olives so used shall not be smaller than the following applicable minimum size:

(i) Whole ripe olives of Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties, of a size which individually weighs 1/90 pound (5 grams) each: *Provided*, That not more than 25 percent, by count, of the olives may be smaller than 1/90 pound.

(ii) Whole ripe olives of Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties, of a size which individually weighs 1/140 pound (3.2 grams) each: *Provided*, That not more than 25 percent, by count, of the olives may be smaller than 1/140 pound.

(iii) Whole ripe olives of Variety Group 2, except the Obliza variety, of a size which individually weighs 1/180 pound (2.5 grams) each: *Provided*, That not more than 20 percent of the olives by count, may be smaller than 1/180 pound.

(iv) Whole ripe olives of Variety Group 2 of the Obliza variety of a size which individually weighs 1/140 pound (3.2 grams) each: *Provided*, That not more than 20 percent, by count, of the olives may be smaller than 1/140 pound.

(v) Whole ripe olives not identifiable as to variety or variety group of a size which individually weighs 1/180 pound (2.5 grams) each: *Provided*, That not more than 20 percent of the olives, by count, may be smaller than 1/180 pound.

(vi) Pitted ripe olives of Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties of a size which individually measures 20 millimeters in diameter: *Provided*, That not more than 25 percent, by count, of the olives may measure less than 20 millimeters in diameter.

(vii) Pitted ripe olives of Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties of a size which individually measures 16 millimeters in diameter: *Provided*, That not more than 25 percent, by count, of the olives may be smaller than 16 millimeters in diameter.

(viii) Pitted ripe olives of Variety Group 2, except the Obliza variety, of a size which individually measures 14 millimeters in diameter: *Provided*: That not more than 20 percent of the olives, by count, may be smaller than 14 millimeters.

(ix) Pitted ripe olives of Variety Group 2 of the Obliza variety of a size which individually measures 16 millimeters in diameter: *Provided*, That not more than 20 percent, by count, of the olives may be smaller than 16 millimeters.

(x) Pitted ripe olives not identifiable as to variety or variety group of a size which individually measures 14

millimeters in diameter: *Provided*, That not more than 20 percent, by count, of the olives may be smaller than 14 millimeters in diameter.

(c) The Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade and size of processed olives from imported bulk lots for use in canned ripe olives and the grade and size of imported canned ripe olives. Inspection by said inspection service with appropriate evidence thereof in the form of an official inspection certificate, issued by the service and applicable to the particular lot of olives is required. With respect to imported bulk olives, inspection and certification shall be completed prior to use as packaged ripe olives. With respect to imported canned ripe olives inspection and certification shall be completed prior to importation. Any lot of olives which fails to meet the import requirements may be exported or disposed of under supervision of the Processed Products Branch, Fruit and Vegetable Division, AMS, USDA, with the costs of certifying the disposal borne by the importer. Such inspection and certification services will be available, upon application, in accordance with the applicable regulations governing the inspection and certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (Part 52 of this title). Application for inspection of canned ripe olives shall be made not less than 10 days prior to the time when the olives will be imported. Since inspectors are not located in the immediate vicinity of some of the small ports of entry, importers of canned ripe olives shall make arrangements for inspection through one of the following offices at least 10 days prior to the time when the olives will be imported:

Office and Telephone

Southeastern Regional Office, P.O. Box 860, Third Street and Avenue A, S.W., Winter Haven, Florida 33880; (813) 294-7416

Central Regional Office, U.S. Custom House, Room 1014, 610 South Canal Street, Chicago, Illinois 60607; (312) 353-6217 or 6218

Western Regional Office, 111 West St. John Street, Suite 416, San Jose, California 95113; (408) 275-7253

Application for inspection of processed bulk olives shall be made not less than 3 days prior to use in the production of canned ripe olives. Such application

shall be made through the following office:

Western Regional Office, 111 West St.
John Street, Suite 416, San Jose,
California 95113; (408) 275-7253

(d) Inspection certificates shall cover only (1) the quantity of canned ripe olives that is being imported at a particular port of entry by a particular importer or (2) the quantity of canned ripe olives processed from a lot or subplot of imported bulk olives.

(e) Inspection shall be performed by USDA inspectors in accordance with said regulations governing the inspection and certification of processed fruits and vegetables and related products (Part 52 of this title). The cost of each such inspection and related certification shall be borne by the applicant therefor. Applications for inspection shall be accompanied by, or there shall be submitted promptly thereafter, either (1) an "on board" bill of lading designating the lots to be entered as canned ripe olives, (2) a list of such lots and their identifying marks, or (3) a list identifying lots of imported bulk olives.

(f) Notwithstanding any other provisions of this regulation, any importation of canned ripe olives or olives imported in bulk for use in the production of canned ripe olives which, in the aggregate, does not exceed 100 pounds drained weight may be imported without regard to the requirements of this section.

(j) Each inspection certificate issued with respect to canned ripe olives to be imported into the United States and canned ripe olives processed from a lot or subplot of imported bulk olives shall set forth, among other things:

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

Dated: December 31, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 82-297 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-02-M

SUMMARY: The Department of Energy is amending 10 CFR Part 504 to remove 504.4, "Electric Utility System Compliance Option". This rule is being removed because the prohibition against the use of natural gas by existing electric powerplants contained in Title III of FUA has been eliminated by section 1021 of the Omnibus Budget Reconciliation Act of 1981. In addition, 10 CFR Part 508, "Special Rule for Temporary Public Interest Exemption", is rescinded.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT:

Cliff Tomazewski, Office of Fuels Conversion, Economic Regulatory Administration, Room 6114E, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3313

Marilyn Ross, Office of General Counsel, Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2967

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room 7120, Federal Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, (202) 633-8108

SUPPLEMENTARY INFORMATION:

I. Background Information

Section 501 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA"), authorizes utilities which own or operate powerplants subject to the general prohibitions against the use of natural gas by existing powerplants contained in Title III of FUA to elect to be covered by a system compliance plan. Upon approval by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) of such a plan, the utility would be considered in compliance with any prohibition under Title III relating to the use of natural gas. ERA promulgated regulations, at 10 CFR 504.4, which established the requirements for approval of system compliance plans and established the deadline for submission of such plans to ERA as August 1, 1980.

Section 1021 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 ("OBRA") amended Title III of FUA by eliminating the general prohibitions against use of natural gas as a primary energy source by existing electric powerplants.

In view of the elimination of the general prohibitions against the use of natural gas by existing electric powerplants contained in Title III of

FUA, ERA determined that 10 CFR 504.4 should be rescinded because the need no longer exists to further process or approve these compliance plans.

On November 4, 1981 (46 FR 54753) ERA issued a Notice of Proposed Rulemaking to amend 10 CFR Part 504 by removing § 504.4 "Electric Utility System Compliance Option."

In further response to the elimination of the general prohibitions against the use of natural gas as a primary energy source by existing powerplants under former section 301(a) of FUA, ERA proposed to rescind the so-called "Special Rule," 10 CFR Part 508, authorizing temporary public interest exemptions from those prohibitions.

As a result of these actions, ERA will no longer process pending compliance plans or enforce any terms and conditions which were imposed on approved plans. Similarly, ERA will not process any petitions for exemption under the Special Rule nor will it enforce the terms and conditions attached to any exemptions which have already been granted.

ERA invited comments on the proposed rulemaking for 30 days ending December 4, 1981. No comments were received.

II. Procedural Matters

(a) *Section 102 of the National Environmental Policy Act (NEPA).* The Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness has determined that this regulation would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of NEPA. Therefore, the preparation of an Environmental Impact Statement for this rule is not required.

(b) *Regulatory Flexibility Act.* ERA has determined that these procedures will primarily impact large public utilities. Therefore, ERA certifies that the promulgation of this rule will not have a significant economic impact on a substantial number of "small entities" within the meaning of the Regulatory Flexibility Act. Therefore, a regulatory flexibility analysis has not been prepared.

(c) *Executive Order 12291.* ERA has determined that the amendment to 10 CFR Part 504 is not a major rule as defined in Executive Order 12291, as it will not be likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers or individual industries; Federal, state, or local government agencies; or geographic regions; or (3) significant

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 504 and 508

Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States based enterprises in domestic or export markets.

(Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101 *et seq.*;
Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 42 U.S.C. 8301 *et seq.*;
Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35)

PART 504—EXISTING FACILITIES

§ 504.4 [Removed]

Section 504.4 is removed.

PART 508—SPECIAL RULE FOR TEMPORARY PUBLIC INTEREST EXEMPTION [REMOVED]

For the reasons set out in the preamble, Chapter II, Title 10 of the Code of Federal Regulations is amended by removing § 504.4 and Part 508.

Issued in Washington D.C. on December 21, 1981.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82-456 Filed 1-6-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Reg. C; Docket No. R-0350]

Home Mortgage Disclosure; Final HMDA-1 Form

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing the final version of its HMDA-1 disclosure and reporting form, required under the Home Mortgage Disclosure Act. This format is to be used by all depository institutions covered by Regulation C for

reporting their mortgage and home improvement loan data, beginning with data for the calendar year 1981. The form constitutes Appendix C to the regulation.

EFFECTIVE DATE: December 30, 1981.

FOR FURTHER INFORMATION CONTACT: John C. Wood, Senior Attorney, or Claudia J. Yarus, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: (1) The Board is publishing the final version of its HMDA-1 form. A proposed version of this form was published in the Federal Register on February 10, 1981 (46 FR 11780), as part of the Board's proposal to revise Regulation C (12 CFR Part 203) implementing the Home Mortgage Disclosure Act (12 U.S.C. 2801-2811). The Board published a final, revised version of Regulation C that became effective on August 11, 1981 (46 FR 40679). Publication of the final version of the HMDA-1 form was deferred, however, because of the forms review by the Office of Management and Budget required under the Paperwork Reduction Act (Pub. L. 96-511). OMB has now reviewed and approved the form.

The HMDA-1 form is the prescribed standard format that all depository institutions subject to Regulation C must use for disclosing and reporting mortgage and home improvement loan data, beginning with data on loans made or purchased in calendar year 1981. Depository institutions may photocopy the HMDA-1 form that will be provided through federal financial supervisory agencies, or may print their own report forms so long as they use the prescribed format. If they use computer-generated reports, they may adapt the form for computer print-out as necessary, so long as the *format* conforms to the HMDA-1 form.

Copies of the form will be made available to all state member banks of the Federal Reserve System through the Federal Reserve Banks. The form will be made available to all other depository institutions through the nearest regional office of their federal supervisory agency—the Federal Home Loan Bank Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the National Credit Union Administration.

It is contemplated that the Federal Reserve Board will distribute copies of HMDA-1 to the other agencies during the first two weeks in January 1982, for further distribution by each agency to the depository institutions subject to its jurisdiction.

Depository institutions should contact their own supervisory agency, not the Federal Reserve, for information about distribution.

The HMDA-1 form is identical in substance to the proposed version that was published in February 1981; the instructions have been expanded to assist users. This revised form is also similar to the original form in Regulation C, the difference being that the "Total Residential Mortgage Loans" column in the original form has been deleted.

The addition of the HMDA-1 form to Regulation C does not impose any new requirements; it merely provides the vehicle for fulfilling requirements already set forth in the regulation. Accordingly, the form becomes effective immediately, and is not subject to a delayed effective date under 5 U.S.C. 553(d).

(2) Pursuant to the authority granted in 12 U.S.C. 2803(e) and 2804(a), the Board hereby amends Regulation C (12 CFR Part 203) by adding Appendix C, to read as follows:

PART 203—HOME MORTGAGE DISCLOSURES

Appendix C

MORTGAGE LOAN DISCLOSURE STATEMENT

WHO MUST FILE.

1. This form must be filed by depository institutions that
 - a. have assets of more than \$10 million,
 - b. make first lien loans on 1-to-4 family residential real property, and
 - c. are located in standard metropolitan statistical areas (SMSAs).
2. Institutions that have been exempted by the Federal Reserve Board because they are covered by a similar state mortgage loan disclosure law will instead complete and file the disclosure form required by their state law.

WHEN AND WHERE TO FILE.

1. The institution must send two copies of the disclosure statement to the regional office of its federal enforcement agency no later than March 31 following the calendar year for which the loan data were compiled.
2. The institution also must make its disclosure statement available no later than March 31 for examination by the public.

INSTRUCTIONS
FOR COMPLETION OF FORM

DATA TO BE SHOWN.

1. The institution must show the data on residential mortgage and home improvement loans that were originated and purchased during the calendar year covered by the statement.
2. Data for each category on the statement must show both the number of loans and the total dollar amount of loans.
3. Data for loans originated by the institution are to be shown in Part A and data for loans purchased in Part B.

4. Dollar amounts are to be rounded to the nearest thousand (\$500 will be rounded up), and shown in terms of thousands.

DATA TO BE EXCLUDED.

1. Do not report loans that, although secured by real estate, are made for purposes other than the purchase of residential real estate or home improvement (for example, a loan secured by residential real property for purposes of financing education, a vacation, or business operations).
2. Also exclude from disclosure: construction loans and other temporary financing; loans made or purchased by the institution acting in a fiduciary capacity (by the institution's trust department, for example); loans on unimproved land; and refinancings of loans originated by the institution that involve no increase in the outstanding principal (provided the parties to the loan remain the same).

GEOGRAPHIC ITEMIZATION (Grouping of loan data by SMSA, census tract or county, and outside-SMSA).

1. Loan data are to be itemized separately for each SMSA in which the institution has a home or branch office. A separate page must be used for each SMSA. (See item 4 below for treatment of loans on property outside such SMSAs.) The institution must use the SMSA boundaries as defined by the U.S. Department of Commerce on January 1 of the calendar year for which the loan data are compiled.

2. Loan data on property within an SMSA shall be further itemized by the census tract in which the property is located, except that the loan data shall be itemized by county instead of census tract when the property to which the loan relates is located
 - a. in an area that is not divided into census tracts on the Census Bureau's census tract outline maps; or
 - b. in a county with a population of 30,000 or less. (Note: To determine population, use the Census Bureau's PC80-1-A population series. If that series is not yet available for a particular county, use the PHC80-Y series.)

3. To determine census tract numbers and SMSA boundaries, the institution should consult the Census Bureau's

census tract outline maps.

(The institution should use the Census Bureau's PHC80-2 series for the 1980 census if it is available for the particular SMSA. Until the series is available, the institution may use the Census Bureau's PHC(1) series maps for 1970, or it may use 1980 data from the Census Bureau (such as the GBFDIME files) or from a private publisher.

The institution should indicate on the statement whether it has used 1970 or 1980 census tracts. An institution using 1970 census tracts for a given SMSA must use them for the entire calendar year, even if the PHC80-2 maps for that SMSA become available during the year.)

4. If the property to which the loan relates is located outside SMSAs in which the reporting institution has a home or branch office, or outside any SMSA, the loan data should be listed as an aggregate sum in Section 2 of the form; no geographic itemization is necessary.

5. Institutions that have a home or branch office in the New York City/New Jersey SMSA should note that there are duplicate census tract numbers in New York City. There may also be duplicate numbers in other SMSAs. When reporting loan data relating to property in these SMSAs, the institutions must indicate the county name in addition to the tract number.

TYPE-OF-LOAN ITEMIZATION (Itemization of each geographic grouping into loan categories).

1. Column A:

FHA, FmHA, and VA loans on 1-to-4 family dwellings. This category includes loans that are secured by liens (both first and junior liens) and that are made for the purpose of purchasing residential real property and that have FHA, FmHA, and VA insurance or guarantee. It includes refinancings (but see item 2 under DATA TO BE EXCLUDED). It may include, at an institution's option, first lien loans for home improvement purposes if the institution normally classifies first lien loans as purchase loans. It does not include FHA Title I loans, which are to be entered in column C.

2. Column B:

Other home purchase loans ("conventional" loans) on 1-to-4 family dwellings. This category includes loans

secured by liens (both first and junior liens) and made for the purpose of purchasing residential real property, other than FHA, FmHA, and VA loans. It includes refinancings (but see item 2 under DATA TO BE EXCLUDED). It may include, at an institution's option, first lien loans for home improvement purposes if the institution normally classifies first lien loans as purchase loans.

3. Column C:

Home improvement loans on 1-to-4 family dwellings. This category is limited to any loan, including a refinancing, that is to be used for repairing, rehabilitating, or remodeling.

ing a residential dwelling and that is recorded on the institution's books as a home improvement loan. It includes both secured and unsecured loans.

4. Column D:

Loans on multi-family dwellings (5 or more families). This category includes home purchase and home improvement loans—that is, it covers the same types of loans as are covered in columns A, B, and C. The difference is that those columns relate to loans on 1-to-4 family dwellings, whereas column D relates to loans on dwellings for 5 or more families.

5. Column E:

Non-occupant loans on 1-to-4 family dwellings. This is an addendum category for reporting those home purchase and home improvement loans on 1-to-4 family dwellings (recorded in columns A, B, and C) that were made to a borrower who did not, at the time of the loan application, intend to use the property as a principal dwelling. A depository institution may assume, unless its records contain information to the contrary, that a loan it purchases does not fall within this category.

12 CFR Parts 213 and 226

[Regs. M and Z; Docket No. R-0381]

**Consumer Leasing/Truth in Lending;
Deferral of Date for Mandatory
Compliance****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Deferral of mandatory effective dates.

SUMMARY: The Board is deferring until October 1, 1982, the mandatory effective date for compliance with Regulation M (Consumer Leasing) and revised Regulation Z (Truth in Lending), which implement the Truth in Lending Simplification and Reform Act. Although the revised regulations became effective on April 1, 1981, compliance originally was not required until April 1, 1982. In the interim, creditors were given a transition period during which they could comply with either the revised regulations or the previous Regulation Z. On December 26, 1981, the President signed into law an amendment to the Truth in Lending Simplification and Reform Act delaying the mandatory effective date for six months until October 1, 1982. Pursuant to this new statutory mandate, the Board is deferring the mandatory effective date for compliance with its revised regulations and continuing the transition period until October 1, 1982.

The Board is also deferring until October 1, 1982, rescission of certain provisions in the previous Regulation Z (implementing the Truth in Lending Act prior to the 1980 simplification amendments). The Board had permitted creditors to comply, effective January 10, 1980, with amendments to the previous regulation that provided greater flexibility and protection in disclosing the annual percentage rate and other terms. Creditors could, however, continue to comply with provisions of previous Regulation Z until April 1, 1982. Creditors may now continue to comply with the previous regulation until October 1, 1982.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara D. Ranagan, Staff Attorney (202-452-3667), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1)

Introduction. Effective April 1, 1981, the Board simplified its consumer credit rules in Regulation Z (12 CFR Part 226) and issued a revised regulation. The Board also extracted the consumer leasing rules from Regulation Z and placed them in Regulation M (12 CFR Part 213) (46 FR 20848, April 7, 1981). The resulting new regulations (hereinafter referred to as the "simplified regulations") reflect amendments made by the Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96-221, 94 Stat. 170, March 31, 1980). That act had a mandatory effective date of April 1, 1982, but permitted creditors to comply with the simplified regulations that the Board was required to promulgate by April 1, 1981. The previous Regulation Z (hereinafter referred to as "pre-simplification Regulation Z") and accompanying appendices, supplements and interpretations were to remain concurrently effective during the interim. By promulgating its simplified regulations in April of 1981, the Board provided a 1-year transition period during which creditors could choose to comply with either the simplified regulations or the pre-simplification Regulation Z until compliance became mandatory on April 1, 1982. The purpose of the transition period was to allow creditors sufficient time to modify their disclosure forms and adapt their procedures. The Official Staff Commentary to simplified Regulation Z was issued on October 6, 1981 (46 FR 50288, October 9, 1981) giving creditors who had waited for further clarification slightly less than six months to meet the April 1, 1982, mandatory compliance date.

On December 26, 1981, the President signed into law an amendment to the Truth in Lending Simplification and Reform Act delaying the mandatory effective date for six months to October 1, 1982 (Title III of the International Banking Facility Deposit Insurance Act, Pub. L. 97-110, 95 Stat. 1513). The deferral provides creditors and lessors additional time to achieve compliance and requires the Board to delay the mandatory compliance date of its simplified regulations. Accordingly, the Board is continuing the transition period so that creditors who wish to do so may

continue to comply with pre-simplification Regulation Z and accompanying appendices, supplements, and interpretations until October 1, 1982. The Board is also making technical amendments to two footnotes in simplified Regulation Z that refer to the mandatory compliance date by changing the date to October 1, 1982.

The change being made is limited strictly to the deferral of the mandatory compliance date and does not alter the April 1, 1981, optional compliance date. It simply prolongs the transition period and does not in any way affect the substantive requirements in pre-simplified Regulation Z, the simplified regulations, or the transition rules discussed in 46 FR 20848. Technical amendments that conform the references in the Official Staff Commentary on Regulation Z to the deferred mandatory compliance date will be made when the commentary is revised.

Five states had been granted exemptions from pre-simplification Regulation Z. Those exemptions—to Connecticut, Maine, Massachusetts, Oklahoma, and Wyoming—were due to expire on April 1, 1982. They will now remain in effect until October 1, 1982, unless superseded by a new exemption granted under the simplified regulations. Any state, including the exempt states, may still seek an exemption from the simplified regulations before that date.

The Board is also deferring until October 1, 1982, rescission of certain provisions concerning the annual percentage rate in pre-simplification Regulation Z. On December 31, 1979, the Board amended provisions in pre-simplification Regulation Z relating to the calculation and disclosure of annual percentage rate and other credit terms (44 FR 77139). Although these amendments had an effective date of January 10, 1980, creditors were given the option of complying with the new or the old provisions until October 1, 1980. The Board subsequently changed that date from October 1, 1980, to April 1, 1982, to coincide with the mandatory effective date of the Truth in Lending Simplification and Reform Act (45 FR 56795, August 26, 1980). The Board is now extending the optional compliance period until October 1, 1982 to coincide with the deferred effective date of the Truth in Lending Simplification and Reform Act.

The actions being taken are required by Pub. L. 97-110 enacted December 26, 1981. These actions facilitate implementation of the 1980 simplification act and do not impose any additional burden or liability. Therefore, publication of the changes for public comment and a delay in their effective date are neither necessary nor required under 5 U.S.C. 553 (b) and (d), and immediate implementation is in the public interest.

(2) *Text of amendments.* In consideration of the foregoing and pursuant to the authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604) as amended by Pub. L. 96-221, 94 Stat. 170 (March 31, 1980) and Pub. L. 97-110, 95 Stat. 1513 (December 26, 1981), the Board amends its regulations as follows:

1. The Board delays from April 1, 1982, to October 1, 1982, the mandatory effective date for compliance with simplified Regulations Z and M and the expiration of pre-simplification Regulation Z (12 CFR Part 226), appendices, supplements, Board and staff interpretations, and state exemptions. The April 1, 1981, effective date for optional compliance with simplified Regulations Z and M as described in 46 FR 20848 (April 7, 1981) remains unchanged.

2. The Board amends simplified Regulation Z (12 CFR Part 226) as described in 46 FR 20848 (April 7, 1981) by changing the date in footnote 31a to § 226.14 and footnote 45a to § 226.22 from "April 1, 1982," to "October 1, 1982."

3. The Board delays from April 1, 1982, to October 1, 1982, rescission of § 226.5 (b) through (e), Board Interpretations §§ 226.502, 226.503 and 226.505, and Supplement I to pre-simplification Regulation Z (12 CFR Part 226), as described at 44 FR 77139 (December 31, 1979) and 45 FR 56795 (August 26, 1980). The January 10, 1980, effective date for revisions to § 226.5 and Supplement I, and new § 226.8 (r) and (s) remains unchanged.

(3) *Authority.* Sec. 105 of the Truth in Lending Act as amended by section 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604). Board of Governors of the Federal Reserve System, acting by the Secretary of the Board pursuant to delegated authority under 12 CFR 265.2(a), December 31, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-429 Filed 1-6-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 20026; Amdt. No. 21-56]

Aircraft Noise Requirements; Amendment to Definition of "Acoustical Change" to Permit Temporary, Limited Engine/Nacelle Intermix for Turbojet Engine Powered, Transport Category Large Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the definition of "acoustical change" in the aircraft noise certification rules as applied to turbojet engine powered, transport category large airplanes. The amendment permits the temporary installation and use (intermix) of different engines or nacelles changes or both, on a particular airplane for a 90 day period without further documentation of the noise levels, provided that the airplane is brought back into conformance with an acoustically certificated configuration for that airplane within 90 days of the initial change.

Under the previous rule, any voluntary change in type design of an airplane that might increase noise was an "acoustical change" and after the design change the airplane could not exceed specified noise levels. Thus, it was frequently necessary for aircraft manufacturers or operators to show that each possible engine/nacelle configuration combination complied with applicable noise levels, even if that configuration was only installed temporarily. They were also required to provide complete airplane flight manual materials approved by the FAA for each affected airplane. Those processes imposed a considerable manpower and paperwork obligation on the part of the manufacturer, the operator, and the FAA. The FAA's review showed that potential increase in aircraft noise would be minimal and, thus, that the requirement was unduly restrictive. Accordingly, this amendment allows type design changes, that are limited to the engine, or nacelle, or both, where the airplane may be operated without such compliance for a period of not more than 90 days.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal

Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591 telephone: (202) 755-9027.

SUPPLEMENTARY INFORMATION:

I. Regulatory History

In accordance with FAR Part 11.25(c), the Air Transport Association of America (ATA) petitioned the FAA on January 4, 1980, for an exemption from FAR Part 21.93(b) and for an appropriate rule change to allow unlimited intermix on its members' operating fleets for a period of up to 90 days. A summary of that petition was published in the *Federal Register* for public information and comment on March 6, 1980 (45 FR 14590).

On January 26, 1981, the Federal Aviation Administration (FAA) published a Notice of Proposed Rulemaking, Notice No. 81-3 (46 FR 8347), proposing to amend the definition of "acoustical change" in the aircraft noise certification rules as applied to turbojet engine powered, transport category large airplanes. The notice proposed permitting the temporary installation and use (intermix) of different engines or nacelles on a particular airplane for a 90 day period without further documentation of the noise levels, provided that the airplane is brought back into conformance with an acoustically certificated configuration for that airplane within 90 days of the initial change. Interested persons were invited to comment on the proposals contained in that notice by March 27, 1981. All comments received were given full consideration in the promulgation of this amendment. Except as discussed below, this amendment adopts the proposals in Notice No. 81-3 without substantive change.

Pursuant to section 611(b)(1) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1431) the FAA has consulted with the Secretary of Transportation and the U.S. Environmental Protection Agency (EPA) prior to the adoption of this amendment. An environmental assessment regarding this amendment has been prepared in accordance with applicable environmental review procedures. This amendment was submitted to the EPA in accordance with section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7).

Part 36 of the Federal Aviation Regulations "Noise Standards: Aircraft Type Certification" (34 FR 18355; November 18, 1969), which became effective December 1, 1969, originally prescribed noise measurement, evaluation, and level requirements for

the issuance of type certificates, and changes to those certificates, for subsonic transport category large airplanes and for subsonic turbojet engine powered airplanes regardless of category and weight. That regulation initiated the regulatory noise abatement program of the FAA under the statutory authority of Public Law 90-411 (July 21, 1968), which added section 611 to the Federal Aviation Act of 1958 (the "FA Act").

II. Synopsis of the Amendment

The purpose of this amendment is to change § 21.93(b) of the FARs (14 CFR Part 21) to amend the definition of "acoustical change" as applied to turbojet engine powered, transport category large airplanes. The amendment is based upon a recommended change to the rule submitted in a petition for rulemaking under FAR Part 11 by ATA dated January 4, 1980. A summary of that petition was published in the *Federal Register* for public information and comment on March 6, 1980 (45 FR 14590). Section 21.93(b) previously defined "acoustical change" as any voluntary change in the type design of an airplane that might increase the noise levels of the airplane.

The petition requested an amendment to § 21.93(b) so that temporary (less than 90 day) engine/nacelle intermixes for maintenance purposes on turbojet engine powered, transport category large airplanes would not be classified as "acoustical changes" and, thus, not be governed by the applicable requirements of § 36.7 of Part 36. Petitioner's reasons for the amendment indicate that granting of the petition would have a minimum effect on individual airplane noise and an even lesser effect on national fleet noise level. Results would include significant cost savings, reduced spares inventory, better allocation of manpower resources, and reduced workload and paperwork burden on industry and Government.

III. Aircraft Noise Rules

Public Laws 90-411, 92-574, 95-609, and 96-193 were enacted to provide the statutory basis for promulgating regulations providing present and future relief and protection to the public health and welfare from noise and sonic boom from civil aircraft. Under section 611 of the FA Act, the FAA, after consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, is responsible for the adoption and amendment of rules which prescribe the necessary standards and regulations.

Since the adoption of FAR Part 36 in 1969, the FAA has issued a number of proposed amendments to its provisions and, subsequent to notice and public procedure, adopted those amendments which have been found to be consistent with the provisions of section 611 of the FA Act. Those amendments have increased the protection of the public health and welfare regarding noise and sonic boom. In addition to the FAR Part 36 airplane noise certification rules, the FAA has adopted rules governing how airplanes should be operated for noise control purposes. On March 28, 1973, the FAA published an amendment to Part 91 (Amendment 91-112; 38 FR 8051) to prohibit unauthorized operation of civil aircraft at supersonic speeds over the United States. Amendment 91-134 (41 FR 52388; November 29, 1976), amended Part 91 for noise abatement purposes to require that a pilot in command of a civil turbojet-powered airplane use the lowest authorized flap setting consistent with safety. Amendment 91-136 (41 FR 56046; December 23, 1976) added Subpart E to Part 91 to require phased compliance with the Part 36 noise limits by U.S. registered, civil subsonic turbojet engine powered airplanes with maximum weight of more than 75,000 pounds having standard airworthiness certificates and engaged in air commerce in the United States.

IV. Need for Regulation

The need for this amendment stems from difficulties in complying with the current acoustical change provisions of FAR § 21.93(b) when, for operational purposes, the airline operators must "intermix" engine configurations. The current rules require that each such configuration must be fully certificated for both safety (airworthiness) and noise, even though many configurations would only be employed for short periods. The FAA has determined that while the safety requirements are appropriate and necessary, the amount of paperwork burden on both industry and government for certificating temporary configurations for noise is unwarranted. Docket comments have also pointed out that the current rule is costly to the operators because it prohibits the use of certain spares that are otherwise approved from the airworthiness standpoint.

Industry data and FAA-sponsored research indicated that the increase in aircraft noise would be minimal and not have a significant impact. The FAA conducted an environmental assessment which resulted in a Finding of No Significant Impact. A copy of that finding is available in the public docket.

V. Comments and Responses

The FAA received 12 comments from interested persons including local governmental bodies, the aviation industry, aircraft owners, and airplane operators in response to Notice No. 81-3. Most commenters supported the proposal; however, several issues were raised. For example, suggestions were made concerning a specific language change and extending the time limit. Thus, the comments and FAA's response to them are discussed as follows:

Specific Language Change

Eight comments were received which expressed concern that the language in the notice did not correctly reflect the intent of the ATA's petition. Specifically, commenters questioned the design changes being limited to an "engine or nacelle change." The commenters recommended using the language suggested by the ATA in its original edition which was "engine and/or nacelle changes."

The FAA has given full consideration to the "and/or" provision. After reviewing the commenters' recommendations, the FAA has further clarified its intent by changing the wording from "or" to "engine or nacelle changes or both." In doing so, the definition of "acoustical change" provides increased flexibility in the use of airworthiness approved 90-day engine/nacelle intermixes.

Time Limits

Three comments were received on this feature of the proposal, with one supporting the 90-day time limitation.

Another commenter expressed his opinion that the ATA's petition included the time limit as a concession to environmental pressures. The commenter also mentioned that perhaps there was a need for a relaxed limit of 180 or 360 days, and that the environmental degradation would not be noticeable even with widespread exercise of this relaxed provision.

The third commenter proposed an additional relief by extending the maximum period for which an airplane may be out of conformance from 90 to 180 days. That commenter contends that the noise impact will be very slight and most probably not be discernible to the human ear. Also, the need for temporary intermix operation does not happen very often during the life of an airplane. It usually is related to either the introductory phase of new airplanes into an existing fleet and possibly to engine upgrade programs. So according to the commenter, even a 180 day period will

in fact only represent a very minor portion of the total life of an airplane.

The FAA believes that the 90 days proposed for temporary engine/nacelle intermix is a sufficient time period. The FAA agrees with the petitioner that the paperwork and documentation requirements for the temporary design changes covered by the proposal are grossly disproportionate to the noise benefits they preserve for a short period such as 90 days or less. However, the proposed exception must be carefully prescribed to limit its impact on aircraft noise emissions to those clearly shown to be unwarranted in fulfilling the rule's intended purposes. Thus, the proposed exception would apply only if an engine/nacelle change accomplished on an individual airplane is temporary—that is, the airplane is brought back into conformance with an acoustically certificated configuration for that airplane within 90 days after the initial change. Implementation is controlled through the Airplane Flight Manual and installation documentation approvals.

Present Regulation Should Remain Unchanged

One comment was received that stated that the present regulation should remain unchanged. The commenter is concerned in particular with the increase in noise levels at John F. Kennedy Airport in New York. The commenter addressed the fact that the FAA, using several airlines' data on their B-727 aircraft, estimated that the cumulative Day-Night Noise Level (Ldn) for those airplanes would usually rise an average less than 0.1 decibels at a medium size hub airport. The actual Ldn level could be higher or lower depending on the number of airplanes using intermixes at the airport during any given period. Since JFK is a large size hub airport, the commenter concludes that it can reasonably be assumed that the noise level there will rise considerably more than estimated. That commenter also stated that the more important noise measurement is the single event measure, not cumulative impact analysis.

The FAA appreciates the views expressed in this comment. The purpose of analyzing noise is to evaluate its effect on humans. To do this, numerous specialized measurement techniques and noise units have been developed over the years. For aviation noise analyses, the FAA has determined that the cumulative noise measures be used for all noise analyses. The single event measure, A-weighted sound level dB(A) in decibels, is appropriate only as a supplement to cumulative impact analysis. In addition, studies have

shown that the increase in aircraft noise from this action will be minimal; in some cases the noise resulting from intermix will be reduced. The overall effect will be no measurable increase in cumulative aircraft noise.

The FAA is aware that the estimated number for increased noise levels depends on the number of airplanes operating under this amendment. However, the need for temporary intermix operation does not occur very often during the life of an airplane. Thus, the definition of "acoustical changes" is being amended to apply to configurations that will be used for maintenance purposes.

Noise Suppression Equipment

One comment was received that suggested expanding design changes to include changes to noise suppression equipment, not covered by the intermix of engines and nacelles.

In order to properly respond to this comment the FAA would need a further explanation of the commenter's intent. So far, the FAA has not received any data on this subject. In addition, this issue was not presented in the NPRM and this action is limited to the scope of that notice.

VI. Analysis of the Amendment

This action amends § 21.93(b) of Part 21 of the FARs (14 CFR Part 21) which contains the definition of "acoustical change" in the aircraft noise certification rules as applied to turbojet engine powered, transport category large airplanes. The following discussion outlines the changes to § 21.93(b) of Part 21 of the Federal Aviation Regulations.

Section 21.93(b) is amended to allow the provision concerning acoustical changes to permit, under specified conditions, the intermixing of engines or nacelles changes or both, on an affected airplane. It does not affect any other applicable requirements for certification of type design or airworthiness, or for operating the affected aircraft—only those governing noise level certification. This section approves 90 day intermixes, and contemplates the reinstallation of a complying engine/nacelle combination at or before the end of the 90 days period.

Therefore, the objective of this revised paragraph is (1) to allow unlimited intermix of engines and/or nacelles for maintenance purposes up to a period of 90 days without triggering the acoustical change requirements, and (2) to thereby provide relief to operators, manufacturers, and the FAA without significant aircraft noise impact.

Adoption of the Amendment

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

§ 21.93 [Amended]

Accordingly, § 21.93 of Part 21 of the Federal Aviation Regulations (14 CFR 21) is amended, effective February 8, 1982, as follows:

1. Paragraph (b) is amended by removing the words "paragraph (b)(3)" and adding the words "paragraphs (b)(2) and (b)(3)" in place thereof.

2. Paragraph (b)(2) is amended by adding the following new sentence following the words "[regardless of category]":

* * * * *

(b) * * *

(2) * * * For airplanes to which this paragraph applies, 'acoustical changes' do not include changes in type design that—

(i) Are limited to engine or nacelle changes or both; and

(ii) Specify that the airplane may not be operated, under the change in type design, for any period of more than 90 days unless compliance with the applicable acoustical change provisions of Part 36 of this chapter is shown for that change in type design."

(Secs. 313(a), 601(a), 603, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1423 and 1431); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title I, National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), E.O. 11514, March 5, 1970; and 14 CFR 11.45)

Note.—As cited above, the FAA has determined that this amendment will result in a reduction of costs to both the Government and the public. It, therefore, is not a "major rule" under Executive Order 12291 and is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Further, it is certified that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act as relatively few small entities will be affected and the effect on them should be minimal. A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact."

Issued in Washington, D.C., on December 12, 1981.

J. Lynn Helms,
Administrator.

[FR Doc. 82-294 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-ANE-22; Amdt. 39-4293]

Airworthiness Directives; Sikorsky Models S-58/S-58T Series Helicopters Certificated in All Categories Including Military Types**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; request for comments.

SUMMARY: This amendment establishes a replacement time for the main rotor head horizontal hinge pin, P/Ns S1610-23020-2, -3, and -4, of Sikorsky S-58/S-58T model series helicopters. The examination of main rotor head overhaul record show hinge pin rejection for various reasons. Some rejects were the results of discovering magnetic particle indications of fretting oxidation and flash or corrosion pitting. As a result of this corrosion pitting and fretting damage a mandatory replacement time for main rotor head horizontal hinge pin has been established.

DATES: Effective date—February 1, 1982. Comments on the rule must be received on or before February 1, 1982.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, ANE-212, Engineering and Manufacturing Branch, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7329.

SUPPLEMENTARY INFORMATION: Sikorsky Aircraft examined main rotor head overhaul records for the years 1976, 1977, and 1978 and found that thirty (30) 58T main rotor heads had a 100 percent hinge pin rejection rate for various reasons. Of these pin rejects (120), fifty-seven (57) percent were the result of discovering magnetic particle indications of fretting oxidation and/or corrosion pitting. The minimum/maximum hours head overhaul time for the 30 heads was 752/1103 hours.

Two horizontal hinge pins from a commercial operator were examined and reported by Sikorsky to have small fatigue cracks originating in heavy concentration of corrosion pitting. The total time and history of these two pins was not known.

Therefore, service experience history results show that a large percentage of hinge pins have been rejected at the 1,000 hours overhaul due to magnetic particle indications of corrosion pitting and fretting damage and that this damage may cause high stress concentrations leading to fatigue cracks. Thus, the FAA concurs with Sikorsky's recommendation that a mandatory replacement time for the main rotor head horizontal hinge pins be established at 1,000 hours time in service.

Need for Amendment

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 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

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 effective February 1, 1982, by adding the following new AD:

Sikorsky Aircraft. Applies to Models S-58/S-58T series helicopters certificated in all categories, including Military Type HSS-1, HSS-1F, HSS-1N, HUS-1, HUS-1A, HUS-1AN, HUS-1G, HUS-1Z, H-34A, H-34C, H-34J, CH-34A, CH-34C, HH-34F, HH-34J, SH-34G, SH-34H, SH-34J, UH-34D, UH-34E, UH-34G, UH34J, VH-34C, and VH-34D.

To prevent possible fatigue failure of the horizontal hinge pins, replace main rotor head horizontal hinge pins, P/Ns S1610-23020-2, -3, and -4 with a serviceable part prior to the accumulation of 1,000 hours time in service or within 100 hours time in service after the effective date of this

AD, whichever occurs later. Thereafter, replace horizontal hinge pin with a serviceable part at intervals not to exceed 1,000 hours time in service.

All horizontal hinge pins whose hours time in service cannot be established are to be replaced with a serviceable part within 100 hours time in service from the effective date of this AD.

Other actions which provide an equivalent level of safety with this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

This amendment becomes effective February 1, 1982.

(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 regulation is an emergency regulation that is not major under section 8 of Executive 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final Order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by the Court of Appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Burlington, Massachusetts on December 22, 1981.

Robert E. Whittington,
Director, New England Region.

[FR Doc. 82-432 Filed 1-6-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-EA-56]

Alteration of Transition Area: Elmira, New York**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This rule alters the Elmira, New York, Transition Area so as to change the description to delete the

southwest extension. The extension was created to protect the VOR and RNAV runway 6 instrument procedures which have been cancelled. This results from restrictions placed on the Elmira VORTAC (very high Frequency omnidirectional radio range tactical air navigation).

EFFECTIVE DATE: 0901 GMT, December 24, 1981.

FOR FURTHER INFORMATION CONTACT:

Al Reale, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The rule is relaxatory in that it releases controlled airspace and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective December 24, 1981, by adopting the rule as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, by altering the description of the Elmira, New York, 700-foot floor transition area by deleting, "within 4.5 miles each side of the Elmira VORTAC 237° radial extending from the 12-mile radius area to 11.5 miles SW of the VORTAC."

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Sec. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)) sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Issued in Jamaica, New York on December 1, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.
[FR Doc. 82-142 Filed 01-06-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-EA-36]

**Alteration of Transition Area:
Wellsville, New York**

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This rule alters the Wellsville, New York, Transition Area by changing the bearing from the Hallsport radio beacon (RBN) from 090° to 089°. This change releases and accepts a very small amount of controlled airspace. The change accompanied a change in the description of the RBN to an outer marker compass locator (LOM).

EFFECTIVE DATE: January 7, 1982.

FOR FURTHER INFORMATION CONTACT:

Al Reale, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The rule is clerical in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption Of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective upon publication in the Federal Register as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, by altering the description of the Wellsville, N.Y., 700-foot floor Transition Area as follows:

Delete, "090° bearing from the Hallsport RBN, lat. 42°06'34" N., long. 77°54'33" W., extending from the 9-mile radius area to 11.5 miles east of the RBN;" and substitute, "089° bearing from Wellsville Municipal Airport ILS localizer east course extending from the 9-mile radius area to 11.5 miles east of the OM (42°06'34" N., 77°54'33" W.,") therefor.

The FAA has determined that this regulation only involves an established body of technical regulations for which

frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Issued in Jamaica, New York on December 1, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.
[FR Doc. 82-143 Filed 1-6-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-EA-51]

**Alteration of Transition Area:
Ogdensburg, New York**

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This rule alters the Ogdensburg, New York, Transition Area, by changing the description to reflect a deletion of the reference to the Ogdensburg radio beacon (RBN) and inserting the Ogdensburg instrument landing system (ILS) Localizer. It will also delete the easterly extension based on the RBN, retaining a much smaller easterly extension based on the ILS localizer. This rule results from a re-evaluation of the airspace needs in the terminal area.

EFFECTIVE DATE: January 5, 1982.

FOR FURTHER INFORMATION CONTACT:

Al Reale, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The rule is editorial and relaxatory in nature and does not impose any additional burden on any person. The rule will reduce an approximately 8 by 8 mile area at controlled airspace to a 3 by 1 mile area. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption Of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective upon publication in the Federal Register as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, by altering the description of the Ogdensburg, New York, 700-foot floor transition area by deleting, "within 4.5 miles each side of a 075° bearing from the Ogdensburg RBN (lat. 44°41'30" N., long. 75°24'25" W.) extending from the RBN to 11.5 miles east of the RBN," and substitute, "within 1.5 miles each side of the Ogdensburg ILS localizer east course extending from the 5-mile radius area to the outer marker," therefor.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory flexibility Act.

Issued in Jamaica, New York on December 1, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.

[FR Doc. 82-144 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD**14 CFR Part 245**

[Reg. ER-1280; Economic Regulations Amdt. No. 6 to Part 245; Docket: 39599]

Reports of Ownership of Stock and Other Interests

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is exempting officers and directors of air carriers from a reporting requirement of the Federal Aviation Act, because the information provided by the report is no longer needed. This action is at the Board's own initiative.

DATES:

Adopted: December 23, 1981.

Effective: February 5, 1982.

FOR FURTHER INFORMATION CONTACT:

David Fuss, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5082, or Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: EDR-425,

46 FR 28381, May 26, 1981, proposed to amend 14 CFR Parts 245 and 246 to exempt officers and directors from the reporting requirement contained in section 407(c) of the Federal Aviation Act of 1958 ("the Act"). That section requires each officer and director of an air carrier to file a report annually with the CAB describing stock ownership, position, and other interests held in any air carrier, common carrier, or aeronautical enterprise. Airline officials fulfill this statutory obligation by filing CAB Form 2786. The purpose of the report is to disclose the allocation of management responsibility among an air carrier's officials and the extent of their ownership in one or more air carriers or related enterprises. In addition, the report emphasizes the requirement under section 409 of the Act for prior CAB approval of interlocking relationships involving air carriers, or air carriers and common carriers or aeronautical enterprises. The information provided on CAB Form 2786 enabled the Board to identify violations of section 409 and bring enforcement actions.

The Board re-evaluated its need for this report as part of its general review of data reporting requirements. Pending the outcome of this rulemaking, the requirement that airline officials file CAB Form 2786 was waived. As noted in the NPRM, compliance with section 409 appears to be widespread in the airline industry, and there were no enforcement actions by the Board in response to any of the reports filed in 1980. Much of the information furnished on Form 2786 is available from other sources. The names of the carriers' officers and directors can be obtained from standard commercial sources such as Moody's Transportation Manual and from annual reports to stockholders. Information concerning persons or entities holding more than a 5 percent interest in air carriers can be obtained from other reports filed with the Board. Similar information is required by the Securities and Exchange Commission stock ownership reporting regulations. In light of the compliance record and alternative information

sources, the Board tentatively concluded that the administrative expense and industry burden imposed by Subpart A of Part 245 and CAB Form 2786 outweighed the value of the information provided.

Comments were filed by Delta Air Lines and U.S. Air. Both supported the proposal, noting that elimination of the report will save carrier managements time and expense without adversely affecting persons that might use the information provided. The final rule makes the changes as proposed.

Section 245.1, retitled, *Exemption*, retains the definition of "air carrier" to avoid confusion as to who is exempt. Sections 245.2, *Time for reporting*, and 245.3, *Schedule of data*, are being removed and revoked because the duty to file reports has been eliminated. Paragraph (a) of § 245.12, *Annual report*, and paragraph (b) of § 246.3 *Exemptions*, are being amended to conform with the substantive changes made.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that these rules will not have a significant economic impact on a substantial number of small entities. 14 CFR § 298.11 already exempts air taxis, which include most small air carriers, from the section 407(c) reporting requirement.

PART 245—REPORTS OF OWNERSHIP OF STOCK AND OTHER INTERESTS

Accordingly, 14 CFR Part 245, *Reports of Ownership of Stock and Other Interests*, is amended as follows:

1. The authority for this part is:

Authority: Secs. 204, 407, 409, Pub. L. 85-726, as amended; 72 Stat. 743, 766, 768 (49 U.S.C. 1324, 1377, 1379).

2. The table of contents is amended by revising the title of Subpart A and § 245.1 and removing §§ 245.2 and 245.3, as follows:

Subpart A—Exemption of Officers and Directors From Section 407(c) of the Act

Sec.
245.1 Exemption.

Subpart A—Exemption of Officers and Directors From Section 407(c) of the Act

3. The title of Subpart A is revised to read as set forth above.

4. Section 245.1, *Reports required*, is revised to read:

§ 245.1 Exemption.

Each officer and director of each air carrier is exempt from the reporting requirement in section 407(c) of the Act. For the purpose of this subpart, "air carrier" means any citizen of the United States that undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation, including any person that owns 95 percent or more of the outstanding voting securities of any air carrier.

§§ 245.2 and 245.3 [Removed]

5. Sections 245.2, *Time for reporting*, and 245.3, *Schedule of data*, are removed.

6. In § 245.12, *Annual report*, paragraph (a) is revised to read:

§ 245.12 Annual report

(a) *Time for reporting.* On or before April 1 of each year, every person owning, either beneficially or as trustee, more than 5 percent of any class of the capital stock or capital, as the case may be, of an air carrier shall file with the Board (Attention, Director, Bureau of Domestic Aviation) a report covering such shares or other interest owned as of December 31 of the preceding year. This section shall not apply to a bank or broker insofar as it is a trustee.

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-292 Filed 1-6-82; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 246

[Reg. ER-1281; Economic Regulations Amdt. No. 6 to Part 246; Docket: 39599]

Reports of Stock Ownership of Affiliates of Air Carriers

AGENCY: Civil Aeronautics Board.
ACTION: Final rule.

SUMMARY: The CAB is exempting officers and directors of air carriers from a reporting requirement of the Federal Aviation Act because the information provided by the report is no longer needed. This final rule makes a conforming change. Supplementary information about this change appears in ER-1280, issued along with this rule.

DATES:
Adopted: December 23, 1981.
Effective: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: David Fuss, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington,

D.C. 20428; 202-673-5082, or Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:**PART 246—REPORTS OF STOCK OWNERSHIP OF AFFILIATES OF AIR CARRIERS**

The Civil Aeronautics Board amends 14 CFR Part 246, *Reports of Stock Ownership of Affiliates of Air Carriers*, as follows:

1. The authority of this part is:

Authority: Secs. 204, 407, 409, Pub. L. 85-726, as amended; 72 Stat. 743, 766, 768 (49 U.S.C. 1324, 1377, 1379.)

§ 246.3 [Amended]

2. Paragraph (b) of § 246.3, *Exceptions*, is removed.

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-291 Filed 1-6-82; 8:45 am]
BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[A-1-FRL-2009-5]

Approval and Promulgation of Implementation Plans; Connecticut Revisions—(Cutback Asphalt, Emissions Inventory, Reasonable Further Progress and New Source Review); Connecticut

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: The purpose of this Notice is to approve revisions to the State Implementation Plan (SIP) for the State of Connecticut, which were submitted to EPA on December 15, 1980 and May 29, 1981. These revisions involve a regulation controlling the use of cutback asphalt, approval of the emission inventory for stationary sources of volatile organic compounds, approval of the reasonable further progress demonstration and changes to the new source review program which were submitted in response to conditions imposed by EPA in order to meet the requirements of Part D (Plan Requirements for Nonattainment Areas) and other sections of the Clean Air Act as amended (The Act).

On September 28, 1981 (46 FR 47469) EPA published a Notice of Proposed

Rulemaking (NPR) which described the revisions, proposed approval, and requested public comment. No comments were received during the public comment period on the NPR.

EFFECTIVE DATE: February 8, 1982.

ADDRESSES: Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 1903, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460; Office of the Federal Register, 1100 L St., N.W., Room 8401, Washington, D.C.; and Air Compliance Unit, Department of Environmental Protection, State Office Building, Hartford, CT 06115.

FOR FURTHER INFORMATION CONTACT: Alan E. Dion, Air Branch, Room 1903, JFK Federal Building, Boston, MA. 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION: On September 28, 1981 (46 FR 47469) EPA proposed approval of revisions to the Connecticut SIP as satisfying conditions necessary to meet requirements of Part D and certain other sections of the Act. These conditions dealt with certain aspects of the state's ozone control plan and new source review program and were detailed in a Final Rulemaking Notice of December 23, 1980 (45 FR 84769). The subsequent revisions and EPA's reasons for approving them are explained in the NPR cited above and will not be repeated here.

No public comments have been received on the NPR. Therefore, EPA has not revised its position on the issues which were stated in the NPR.

ACTION: EPA is approving:

1. Regulation 19-508-20(k) controlling the use of cutback asphalt, a component of the ozone attainment plan for stationary sources of volatile organic compounds (VOC). This regulation was submitted to EPA on December 15, 1980.

2. The state's Reasonable Further Progress (REP) Plan.

3. The Stationary Source VOC Emission Inventory, submitted May 29, 1981.

4. The New Source Review Program, as amended in Regulation 19-508-3 by the December 15, 1980 submittal.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that the SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

Under Executive Order 12291 EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it only approves state actions.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's Notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Secs. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: December 30, 1981.

Anne M. Gorsuch,
Administrator.

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart H—Connecticut

1. Section 52.370, paragraph (c) is amended by adding (c)(20) as follows:

§ 52.370 Identification of plan.

(c) * * *

(20) Revisions to meet the requirements of Part D and certain other sections of the Clean Air Act, as amended, were submitted on December 15, 1980 and May 29, 1981. Included are changes to the state Ozone Control Plan involving adoption of Regulation 19-508-20(k) controlling the use of cutback asphalt, the approval of the RFP demonstration for ozone attainment, and a refined inventory of miscellaneous stationary sources of Volatile Organic Compounds and changes to Regulation 19-508-3 (1) dealing with review of new and modified stationary sources.

§ 52.380 [Amended]

2. In § 52.380 paragraphs (c)(1), (c)(3) and (c)(6) are removed and reserved.

[FR Doc. 82-416 Filed 1-6-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 52 and 81

[A-1-FRL 2003-5]

Approval and Promulgation of Implementation Plans; Attainment Status Designations; Manchester, New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

STATE: New Hampshire.

SUMMARY: EPA is approving New Hampshire's revisions to its State Implementation Plan (SIP) submitted on January 12, 1981 and on February 18, 1981. The effect of these revisions is to meet the requirements of Part D and certain other sections of the Clean Air Act, as amended, for attaining carbon monoxide standards in the City of Manchester. The revisions supplement the 1979 carbon monoxide attainment plan and include three air quality-improving transportation projects and a schedule for submitting a plan which demonstrates attainment by no later than December 31, 1987.

EFFECTIVE DATE: January 7, 1982.

ADDRESSES: Copies of the New Hampshire submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.; and the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301.

FOR FURTHER INFORMATION CONTACT: Susan Hager, Air Branch, EPA Region I, Room 1903, J. F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION: On August 20, 1981 (46 FR 42292) EPA proposed approval of revisions to the New Hampshire SIP as meeting the requirements of Part D and certain other sections of the Clean Air Act, as amended, for attaining carbon monoxide standards in the City of Manchester. The revisions and EPA's reasons for approving them are explained in the Notice of Proposed Rulemaking (NPR), cited above, and will not be repeated here.

No public comments have been received on the NPR. As stated in the NPR, the material submitted shows that carbon monoxide standards cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures. The

material also explained the reasons for the State's request for changing the jurisdictional description of the nonattainment area. These revisions make the condition imposed at (45 FR 24871) for New Hampshire to submit a carbon monoxide attainment plan for the City of Manchester no longer appropriate.

Action

EPA is deleting the condition at 45 FR 24871. EPA is also approving as revisions to the New Hampshire SIP:

1. Three air quality improving projects in the City of Manchester.

2. The schedule for developing a SIP revision to include a comprehensive carbon monoxide plan for the City of Manchester by July 1, 1982.

3. The request for extension of the attainment date beyond December 31, 1982 but no later than December 31, 1987.

4. A change in the Section 107 designation from "Metropolitan Manchester" to "City of Manchester".

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities, 46 FR 8709 (January 27, 1981). The attached rule constitutes a SIP approval under Section 110 and 172 within the terms of the January 27, 1981 certification. This action only approves State actions. It imposes no new requirements.

Under Executive Order 12291 EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it only approves State actions.

After evaluation of the State's submittal, the Administrator has determined that the New Hampshire revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, these revisions are approved as revisions to the New Hampshire State Implementation Plan.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject to today's Notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Section 110(a) and Section 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a))

Note.—Incorporation by reference of the Part 52 State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1981.

Dated: December 30, 1981.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520, paragraph (c) is amended by adding subparagraph (19) as follows:

§ 52.1520 Identification of plan.

(c) * * *
(19) Revisions to meet the requirements of Part D and certain other sections of the Clean Air Act, as amended, for attaining carbon monoxide standards in the City of Manchester which were submitted on January 12, 1981 and February 18, 1981. The revisions supplement the 1979 CO attainment plan (§ 52.1520(c)(12)) and include three air quality-improving transportation projects and a schedule for submitting a plan which will demonstrate attainment by no later than December 31, 1987.

§ 52.1527 [Amended]

2. In § 52.1527, *Rules and Regulations*, subparagraph (a)(1) is hereby removed and reserved as follows:

(a)(1) [Reserved]

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81—of Chapter I, Title 40 of the Code of Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.330 New Hampshire [Amended]

1. In § 81.330, the table entitled "New Hampshire—CO" is amended by changing "Metropolitan Manchester" to "City of Manchester".

[FR Doc. 82-418 Filed 1-6-82; 6:45 am]

BILLING CODE 6560-38-M

40 CFR Part 80

[AEN-FRL 1983-6]

Lead in Gasoline Test Procedure

AGENCY: Environmental Protection Agency [EPA].

ACTION: Final rule.

SUMMARY: EPA is amending its testing procedure for the determination of lead content in gasoline by adding an optional automated method to the standard method. The automated method uses techniques of chemical analysis similar to the standard method, making it suitable for comparison purposes, and it is technically equivalent. Its principal advantage is greater laboratory efficiency at a reduced operational cost.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Steven K. Albrink, Tampering Section, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, Washington, D.C. 20460; Tel. (202) 382-2669, or Dr. Joe H. Lowry, Chief, Inorganic Analyses Section, Laboratory Services Division, National Enforcement Investigations Center, Building 53, Box 25227, Denver, Colorado 80225; Tel. (303) 234-4661.

SUPPLEMENTARY INFORMATION:

I. Introduction

The use of leaded gasoline in motor vehicles designed for unleaded gasoline reduces the effectiveness of their emission control systems. Therefore, the introduction of leaded fuel into vehicles requiring unleaded fuel is prohibited by law (40 CFR 80.22). To ensure that fuel represented as unleaded does not contain lead in excess of the maximum established by law of 0.05 gram of lead per gallon of gasoline (40 CFR 80.2(g)), the Administrator has established an approved testing procedure (40 CFR Part 80, Appendix B). This rule amends the approved testing procedure by adding an automated procedure to the previously approved standard method. The rule also amends the procedures for the standard and automated testing of gasoline samples with lead content greater than 0.10 g Pb/gal.

The determination of lead in gasoline by atomic absorption spectrometry has been adopted by the American Society for Testing Materials (method #D3237-73) and the U.S. Environmental Protection Agency (40 CFR Part 80, Appendix B) as the standard method of analysis. EPA's method consists of the manual preparation of an *in-situ* reaction of the alkyl lead compounds in gasoline with iodine, stabilization of

alkyl lead iodide complexes with tricapryl methyl ammonium chloride (Aliquat 336), ten-fold dilution with methyl isobutyl ketone (MIBK) and measurement by atomic absorption spectrometry with an air-acetylene flame. The iodine reaction eliminates the problem of variations in responses due to different alkyl lead compounds.¹ The dilution compensates for severe nonatomic absorption, scatter from unburned carbon, and minimizes matrix effects.²

Proposed rulemaking was published on pages 20698-20703 of the *Federal Register* of April 7, 1981, and invited comments for 60 days ending June 8, 1981. The proposed rulemaking contained a discussion on the development of the automated method and presented data showing equivalence of the automated and manual procedures and precision and accuracy data gathered over a four-month period during the analysis of about 1,500 samples by EPA's National Enforcement Investigations Center.

Various methods are available for the detection of lead content in gasoline. However, any new method approved for use by EPA for enforcement actions under this Part must be compatible, for comparison purposes, with the approved standard method. Therefore, EPA is amending this rule to permit the use of an efficient, accurate, rapid analysis which is, in its chemistry, similar to and compatible with the standard method.

II. Comments and Discussion

No comments were received during the comment period.

Comparison testing of the standard and automated methods was performed by an independent laboratory under contract to EPA's Office of Research and Development. The results of the comparison testing confirmed that the automated procedure is capable of analyzing more samples in a shorter time than the standard procedure. They also show that the precision and accuracy of the automated procedure are acceptable. The results of the study show accuracy of the automated procedure is better than ± 3.5 percent and the precision is better than ± 3 percent. The results are consistent with the data presented in the proposed *Federal Register* notice. A copy of this report is contained in Public Docket A-80-41 at the U.S. Environmental Protection Agency, Central Docket

¹M. Kashiki, S. Yamazoe, S. Ohima, *Amal. Chem. Acta*, 53, 95 (1971).

²Lukasiewicz, R. J., Berens, P. H., Buel, B. E., *Amal. Chem.*, 47, 1045 (1975).

Section, West Tower Lobby, Gallery One, 401 M Street, SW., Washington, D.C. and is available for review weekdays between 8 a.m. and 4 p.m.

The proposed rulemaking included an explicit procedure regarding dilution of gasoline samples above 0.10 g Pb/gal in the standard test method and the automated method. No comments were received regarding this procedure. The final rule adopts this procedure but also allows a higher level calibration standard curve to be used in lieu of dilution if the higher level calibration standard curve is shown to be linear and measurement of lead at levels above 0.10 g Pb/gal is shown to be accurate by the analysis of control samples. The use of dilution of samples or higher level calibration standard curves to determine lead content of samples above the range of the test method has been added to sections 1.1 and 6.3 for the standard method and included in the automated method in sections 1.1 and 8.4.5. to clarify an existing situation. The previous test method in Appendix B did not specify how gasoline samples above 0.10 g Pb/gal were to be tested. Such methods as dilution and higher level calibration standard curves were intended to be used in conjunction with Appendix B even though it is not specifically stated since accurate numerical results for samples with lead content above 0.10 g Pb/gal can only be obtained by such methods. Dilution is the preferable method; however, the use of higher level calibration standard curves is permissible as long as its accuracy can be verified by the use of control samples.

III. Conclusion

The automated system is a useful alternative to the standard method and offers acceptable sensitivity, precision, and accuracy. Accordingly, I am establishing it as an alternative method for the determination of lead content in gasoline.

Note.—Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an effect on the economy of \$100 million or more, it will increase efficiency while decreasing cost to commercial and Government testing facilities which adopt the procedure, and there will not be significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Note.—Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require preparation of a regulatory flexibility analysis. This amendment authorizes use of an optional automated laboratory procedure for testing lead content of gasoline for enforcement purposes. The automated method allows greater efficiency than the previously authorized standard method. This enables facilities to achieve a cost savings if they test a volume of samples sufficient to warrant the initial investment in the pumps and automatic sampler which are required. Small laboratories which cannot afford to purchase the needed equipment may be placed at a competitive disadvantage if they are unable to test gasoline samples as inexpensively as facilities employing the automated method; however, this impact on small entities is expected to be slight. Therefore, pursuant to the provisions of 5 U.S.C. § 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, I have determined that preparation of a regulatory flexibility analysis is not required.

Authority: Sections 211 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. §§ 7545 and 7601(a).

Dated: December 30, 1981.

John W. Hernandez, Jr.,
Acting Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Accordingly, 40 CFR Part 80 is amended as follows:

1. Section 80.3 is revised to read as follows:

§ 80.3 Test methods.

The lead and phosphorus content of gasoline shall be determined in accordance with test methods set forth in the Appendices to this part.

2. Appendix B is amended as follows:

a. The title of Appendix B is revised to read:

Appendix B—Tests for Lead in Gasoline by Atomic Absorption Spectrometry

b. The title of the existing test procedure is revised to read "*Method 1—Standard Method Test for Lead in Gasoline by Atomic Absorption Spectrometry*" and inserted as a new center head above the existing text.

c. Section 1 of Method 1 is revised as follows:

1. *Scope.* 1.1. This method covers the determination of the total lead content of gasoline. The procedure's calibration range is 0.010 to 0.10 gram of lead/U.S. gal. Samples above this level should be diluted to fall within this range or a higher level calibration standard curve must be prepared. The higher level curve must be shown to be linear and

measurement of lead at these levels must be shown to be accurate by the analysis of control samples at a higher level of alkyl lead content. The method compensates for variations in gasoline composition and is independent of lead alkyl type.

d. Section 6 of method 1 is amended to include a new subsection 6.3 as follows:

6.3 Any sample resulting in a peak greater than 0.05 g Pb/gal will be run in duplicate. Samples registering greater than 0.10 g Pb/gal should be diluted with iso-octane or unleaded fuel to fall within the calibration range or a higher level calibration standard curve must be prepared. The higher level curve must be shown to be linear and measurement of lead at these levels must be shown to be accurate by the analysis of control samples at a higher level of alkyl lead content.

e. An approved alternative test method, Method 2, is added to Appendix B following section 8.1.2 as follows:

Method 2—Automated Method Test for Lead in Gasoline by Atomic Absorption Spectrometry

1. *Scope and Application.* 1.1 This method covers the determination of the total lead content of gasoline. The procedure's calibration range is 0.010 to 0.10 gram of lead/U.S. gal. Samples above this level should be diluted to fall within this range or a higher level calibration standard curve must be prepared. The higher level curve must be shown to be linear and measurement of lead at these levels must be shown to be accurate by the analysis of control samples at a higher level of alkyl lead content. The method compensates for variations in gasoline composition and is independent of lead alkyl type.

1.2 This method may be used as an alternative to the Standard Method set forth above.

1.3 Where trade names or specific products are noted in the method, equivalent apparatus and chemical reagents may be used. Mention of trade names or specific products is for the assistance of the user and does not constitute endorsement by the U.S. Environmental Protection Agency.

2. *Summary of Method.* 2.1 The gasoline sample is diluted with methyl isobutyl ketone (MIBK) and the alkyl lead compounds are stabilized by reacting with iodine and a quaternary ammonium salt. An automated system is used to perform the diluting and the chemical reactions and feed the products to the atomic absorption spectrometer with an air-acetylene flame.

2.2 The dilution of the gasoline with MIBK compensates for severe non-atomic absorption, scatter from unburned carbon containing species and matrix effects caused in part by the burning characteristics of gasoline.

2.3 The *in-situ* reaction of alkyl lead in gasoline with iodine eliminates the problem of variations in response due to different alkyl types by leveling the response of all alkyl lead compounds.

2.4 The addition of the quarternary ammonium salt improves response and increases the stability of the alkyl iodide complex.

3. *Sample Handling and Preservation.* 3.1 Samples should be collected and stored in containers which will protect them from changes in the lead content of the gasoline such as from loss of volatile fractions of the gasoline by evaporation or leaching of the lead into the container or cap.

3.2 If samples have been refrigerated they should be brought to room temperature prior to analysis.

4. *Apparatus.* 4.1 AutoAnalyzer system consisting of:

- 4.1.1 Sampler 20/hr cam, 30/hr cam.
- 4.1.2 Proportioning pump.
- 4.1.3 Lead in gas manifold.
- 4.1.4 Disposable test tubes.
- 4.1.5 Two 2-liter and one 0.5 liter

Erlenmeyer solvent displacement flasks. Alternatively, high pressure liquid chromatography (HPLC) or syringe pumps may be used.

4.2 Atomic Absorption Spectroscopy (AAS) Detector System consisting of:

- 4.2.1 Atomic absorption spectrometer.
- 4.2.2 10" strip chart recorder.
- 4.2.3 Lead hollow cathode lamp or electrodeless discharge lamp (EDL).

5. *Reagents.* 5.1 Aliquat 336/MIBK solution (10% v/v): Dissolve and dilute 100 ml (88.0 g) of Aliquat 336 (Aldrich Chemical Co., Milwaukee, Wisconsin) with MIBK (Burdick & Jackson Lab., Inc., Muskegon, Michigan) to one liter.

5.2 Aliquat 336/iso-octane solution (1% v/v): Dissolve and dilute 10 ml (8.8 g) of Aliquat 336 (reagent 5.1) with iso-octane to one liter.

5.3 Iodine solution (3% w/v): Dissolve and dilute 3.0 g iodine crystals (American Chemical Society) with toluene (Burdick & Jackson Lab., Inc., Muskegon, Michigan) to 100 ml.

5.4 Iodine working solution (0.24% w/v): Dilute 8 ml of reagent 5.3 to 100 ml with toluene.

5.5 Methyl isobutyl ketone (MIBK) (4-methyl-2-pentanone).

5.6 Certified unleaded gasoline (Phillips Chemical Co., Borger, Texas) or iso-octane (Burdick & Jackson Lab., Inc., Muskegon, Michigan).

6. *Calibration Standards.* 6.1 Stock 5.0 g Pb/gal Standard:

Dissolve 0.4433 gram of lead chloride ($PbCl_2$) previously dried at 105°C for 3 hours in 200 ml of 10% v/v Aliquat 336/MIBK solution (reagent 5.1) in a 250 ml volumetric flask. Dilute to volume with reagent 5.1 and store in an amber bottle.

6.2 Intermediate 1.0 g Pb/gal Standard: Pipet 50 ml of the 5.0 g Pb/gal standard into a 250 ml volumetric flask and dilute to volume with a 1% v/v Aliquat 336/iso-octane solution (reagent 5.2). Store in an amber bottle.

6.3 Working 0.02, 0.05, 0.10 g Pb/gal Standards:

Pipet 2.0, 5.0, and 10.0 ml of the 1.0 g Pb/gal

solution to 100 ml volumetric flasks. Add 5 ml of a 1% Aliquat 336/iso-octane solution to each flask. Dilute to volume with iso-octane. These solutions contain 0.02, 0.05, and 0.10 g Pb/gal in a 0.05% Aliquat 336/iso-octane solution.

7. *AAS Instrumental Conditions.* 7.1 Lead hollow cathode lamp.

7.2 Wavelength: 283.3 nm.

7.3 Slit: 4 (0.7mm).

7.4 Range: UV.

7.5 Fuel: Acetylene (approx. 20 ml/min at 8 psi).

7.6 Oxidant: Air (approx. 65 ml/min at 31 psi).

7.7 Nebulizer: 5.2 ml/min.

7.8 Chart speed: 10 in/hr.

8. *Procedures.* 8.1 AAS start-up.

8.1.1 Assure that instrumental conditions have been optimized and aligned according to Section 7 and the instrument has had substantial time for warm-up.

8.2 Auto Analyzer start-up [see figure 1].

8.2.1 Check all pump tubing and replace as necessary. Iodine tubing should be changed daily. All pump tubing should be replaced after one week of use. Place the platen on the pump.

8.2.2 Withdraw any water from the sample wash cup and fill with certified unleaded gasoline (reagent 5.6).

8.2.3 Fill the 2-liter MIBK dilution displacement Erlenmeyer flask (reagent 5.5) and the 0.5 liter Aliquat 336/MIBK 1% v/v (reagent 5.2) displacement flask and place the rubber stopper glass tubing assemblies in their respective flasks.

8.2.4 Fill a 2-liter Erlenmeyer flask with distilled water. The water will be used to displace the solvents. Therefore, place the appropriate lines in this flask. This procedure is not relevant if syringe pumps are used.

8.2.5 Fill the final debubbler reverse displacement 2-liter Erlenmeyer flask with distilled water and place the rubber stopper glass tubing assembly in the flask.

8.2.6 Place the appropriate lines for the iodine reagent (reagent 5.4) and the wash solution (reagent 5.6) in their respective bottles.

8.2.7 Start the pump and connect the aspiration line from the manifold to the AAS.

8.2.8 Some initial checks to assure that the reagents are being added are:

- a. A good uniform bubble pattern.
- b. Yellow color evident due to iodine in the system.
- c. No surging in any tubing.

8.3 Calibration.

8.3.1 Turn the chart drive on and obtain a steady baseline.

8.3.2 Load standards and samples into sample tray.

8.3.3 Start the sampler and run the standards (Note: first check the sample probe positioning with an empty test tube).

8.3.4 Check the linearity of calibration standards response and slope by running a least squares fit. Check these results against previously obtained results. They should

agree within 10%.

8.3.5 If the above is in control then start the sample analysis.

8.4 Sample Analysis.

8.4.1 To minimize gasoline vapor in the laboratory, load the sample tray about 5-10 test tubes ahead of the sampler.

8.4.2 Record the sample number on the strip chart corresponding to the appropriate peak.

8.4.3 Every ten samples run the high calibration standard and a previously analyzed sample (duplicate). Also let the sampler skip to check the baseline.

8.4.4 After an acceptable peak (within the calibration range) is obtained, pour the excess sample from the test tube into the waste gasoline can.

8.4.5 Any sample resulting in a peak greater than 0.05 g Pb/gal will be run in duplicate. Samples registering greater than 0.10 g Pb/gal should be diluted with iso-octane or unleaded fuel to fall within the calibration range or a higher level calibration standard curve must be prepared. The higher level curve must be shown to be linear and measurement of lead at these levels must be shown to be accurate by the analysis of control samples at a higher level of alkyl lead content.

8.5 Shut Down.

8.5.1 Replace the solvent displacement flask with flasks filled with distilled water. Also place all other lines in a beaker of distilled water. Rinse the system with distilled water for 15 minutes.

8.5.2 Withdraw the gasoline from the wash cup and fill with water.

8.5.3 Dispose of all solvent waste in waste glass bottles.

8.5.4 Turn the AAS off after extinguishing the flame. Also turn the recorder and pump off. Remove the platen and release the pump tubing.

8.5.5 Shut the acetylene off at the tank and bleed the line.

9. *Quality Control.* 9.1 Precision.

9.1.1 All duplicate results should be considered suspect if they differ by more than 0.005 g Pb/gal.

9.2 Accuracy.

9.2.1 All quality control standard checks should agree within 10% of the nominal value of the standard.

9.2.2 All spikes should agree within 10% of the known addition.

10. *Past Quality Control Data.* 10.1 Precision.

10.1.1 Duplicate analysis for 156 samples in a single laboratory has resulted in an average difference of 0.00011 g Pb/gal with a standard deviation of 0.0023.

10.1.2 Replicate analysis in a single laboratory (greater than 5 determinations) of samples at concentrations of 0.010, 0.048, and 0.085 g Pb/gal resulted in relative standard deviations of 4.2%, 3.5%, and 3.3% respectively.

10.2 Accuracy.

10.2.1 The analysis of National Bureau of Standards (NBS) lead in reference fuel of known concentrations in a single laboratory has resulted in found values deviating from the true value for 11 determinations of 0.0322 g Pb/gal by an average of 0.56% with a standard deviation of 6.8%, for 15 determinations of 0.0519 g Pb/gal by an average of -1.1% with a standard deviation of 5.8%, and for 7 determinations of 0.0725 g Pb/gal by an average of 3.5% with a standard deviation of 4.8%.

10.2.2 Twenty-three analyses of blind reference samples in a single laboratory (U.S. EPA, RTP, N.C.) have resulted in found values differing from the true value by an average of -0.0009 g Pb/gal with a standard deviation of 0.004.

10.2.3 In a single laboratory, the average percent recovery of 108 spikes made to samples was 101% with a standard deviation of 5.6%.

BILLING CODE 6560-26-M

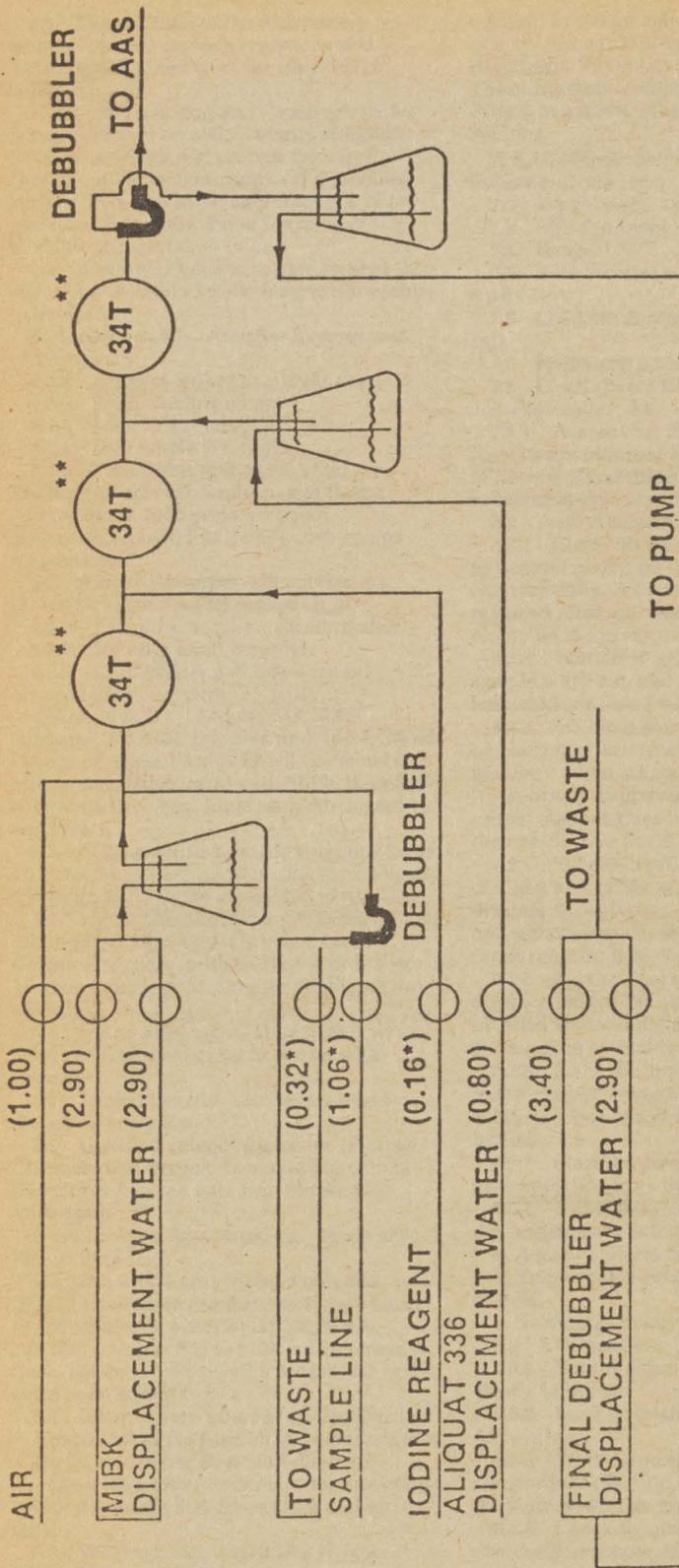


Figure 1

Flow Diagram for the Automated System. (*: Solvaflex pump tubing, **: Technicon part no. 157-0225) Numbers in parentheses refer to the flow rate (ml/min.).

((Secs. 211 and 301(a), Clean Air Act, as amended, 42 U.S.C. 7545 and 7601 (a))
 [FR Doc. 82-289 Filed 1-6-82; 8:45 am]
 BILLING CODE 6560-26-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6101

(M-40636)

Montana; Revocation of Executive Order No. 1643, American Fork Administrative Site

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes the Executive Order dated November 14, 1912, which withdrew 160 acres of land for use as an administrative site. Originally within the Absaroka National Forest, the lands were excluded from the national forest by Secretarial Order dated July 9, 1913. The lands will be returned to public land status, and opened to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 1643 dated November 14, 1912, which withdrew the following described public lands for use by the Forest Service as an administrative site, is hereby revoked.

Principal Meridian

T. 5N., R. 12 E.,
Sec. 28, NE¼.

The area described contains 160 acres in Sweetgrass County.

2. At 8 a.m. on February 3, 1982, the above described lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and requirements of applicable law. All valid applications received at or prior to 8 a.m. on February 3, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on February 3, 1982. They have been and continue to be open to location and entry for metalliferous minerals under the United States mining laws and to

applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

December 30, 1981.

[FR Doc. 82-359 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6227]

Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Associate Director, State and Local Programs and Support is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without a map.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with no Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P. E., Chief, Engineering Branch, State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1-4 family dwelling is \$.25 per \$100 per coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is \$.01 per \$100 coverage. Contents insurance is also available under the

Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is \$.05 per \$100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of \$185,000 coverage for the structure and \$60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

The entry reads as follows:

§ 65.8 List of Communities With No Special Flood Hazard Areas

State and County	Community name	Date of conversion to regular program
California, Placer	City of Auburn.	Dec. 23, 1981.
California, San Bernardino.	City of Upland.	Do.

(44 CFR § 65.8)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: December 21, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-384 Filed 1-6-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 66

[Docket No. FEMA-66]

**Consultation With Local Officials;
Flood Elevation Studies****AGENCY:** Federal Emergency Management Agency.**ACTION:** Final rule.

SUMMARY: Section 206 of the Flood Disaster Protection Act of 1973 requires the Federal Emergency Management Agency (FEMA) to provide consultation with appropriate local officials when undertaking a study of flood elevations. Pursuant to its own regulations, FEMA has satisfied the consultation requirement by conducting a time and cost meeting at the initiation of each flood elevation study. FEMA has determined not to hold the initial time and cost meeting under certain circumstances. Because the majority of the flood elevation studies have already been initiated, and any future mapping emphasis will be on modification of existing elevations, FEMA believes that it can continue to provide adequate consultation with local officials without conducting these initial meetings prior to undertaking the studies for these modifications.

DATE: Effective January 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: Section 206 of the Flood Disaster Protection Act of 1973 requires the Federal Emergency Management Agency (FEMA) to provide adequate consultation with appropriate elected local officials when determining flood elevations for the community. The National Flood Insurance Program (NFIP) regulations implementing Section 206 had provided for the appointment of a Consultation Coordination Officer (CCO) whenever a flood elevation study was undertaken. Furthermore, before commencing with a flood elevation study, a meeting with local officials was to be held. The regulations contained sections setting forth both the responsibilities and duties of the consultation coordination officer.

Flood elevation studies have been initiated for over half of the 17,000 communities participating in the NFIP. The future mapping emphasis will be on modifications to existing elevations and on amendment to the existing maps. With the mapping emphasis changing from the initial determination of flood elevations to the modifications of such

elevations on final maps, FEMA believes that it can continue to provide adequate consultation with local officials without conducting meetings prior to the undertaking of the modifications.

On July 13, 1981, FEMA issued an interim regulation amending its prior regulations (46 FR 35921-3). This regulation finalizes the interim regulation without any substantive changes. The only changes made were to reflect a reorganization within FEMA which transfers responsibility for flood plain mapping from the Federal Insurance Administration to the Office of State and Local Programs and Support and to reflect the reorganization of the FEMA Regional Offices. All responsibility for consultation with local communities has been delegated to the Associate Director for State and Local Programs and Support.

There are several reasons for not conducting meetings prior to undertaking a study to modify flood elevations. Communities for which such studies are to be undertaken have been participating in the Program for some time and, therefore, are presumed to have a background in the Program. Also flood elevation studies have been previously conducted in those communities. Thus, there is less need to explain the process and techniques used to determine flood elevations at a formal meeting. Finally, to conduct a meeting prior to undertaking a study to modify flood elevations will place a great administrative burden on FEMA. Travel funds have been greatly restricted and few staff are available to conduct the meetings.

FEMA believes that the notification in writing to the local officials can assure adequate consultation in this situation. In addition, FEMA will continue its policy of working closely with those communities for which an initial study or a study to modify flood elevations has been undertaken.

For clarity, § 66.5 (Responsibilities of CCO) and 66.6 (Duties of CCO) have been consolidated into a new § 66.6 (Responsibilities for Consultation and Coordination).

FEMA received six comments on the interim rule. The most commonly expressed concern was that FEMA should not assume that local communities are knowledgeable with respect to the NFIP. Some of these comments also suggested that the time and cost meeting is a good vehicle for providing information to the local community about the NFIP.

We agree that in some cases the time and cost meeting is an effective means of explaining the NFIP to communities in

need of such information. Where the Regional Director perceives this need, he or she is fully authorized to hold the meeting.

One comment favored local input in deciding the areas to be restudied. The rule does allow for, and encourages such input. The consultation process will continue, but in some cases it will take the form of letters rather than meetings.

One comment asked for a clarification of the circumstances under which a time and cost meeting will be held. FEMA will be most concerned with the needs of the community, the complexity of the study, and the experience of the community in the program. We encourage states and local communities to indicate to the appropriate Regional Office when a meeting should be held.

It was also suggested that the state conduct the time and cost meeting, possibly under the State Assistance Program. If FEMA has determined that it is not worthwhile to expend money to send its own personnel to conduct a time and cost meeting, then it would probably not be wise to spend money to send state personnel to accomplish the same task. Further, the determination not to hold a meeting will only be made in light of the sufficiency of written correspondence to achieve program objectives.

This rule does not have a substantial impact upon the quality of the environment. A finding to that effect is included in the formal docket file and is available for public inspection at the above address.

This rule is not a "major rule." within the purview of the requirements of Executive Order 12291 for "major rules." FEMA has complied, to the extent permitted by law, with the requirements of Executive Order 12291 pertaining to all rules and regulations. FEMA has weighed carefully the need for this rule, examined the consequences and possible alternatives to the rule, and has chosen the approach which maximizes the net benefit to society and involves the least net cost to society.

The rule will not have a significant economic impact on a substantial number of small entities and, therefore, a flexibility analysis, under the provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), is not required.

Accordingly, Part 66 of Title 44 of the Code of Federal Regulations is amended as follows:

1. The table of contents to Part 66 is revised as follows:

PART 66—CONSULTATION WITH LOCAL OFFICIALS

Sec.

- 66.1 Purpose of part.
 66.2 Definitions.
 66.3 Establishment of Community Case File and flood elevation study docket.
 66.4 Appointment of consultation coordination officer.
 66.5 Responsibilities for consultation and coordination.

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978 (3 CFR 1978 Comp. 329) and Executive Order 12127 (44 FR 19367).

2. Section 66.1(c) is amended by adding a new subparagraph (4) to read as follows:

§ 66.1 Purpose of part.

(c) * * *

(4) Carry out the responsibilities for consultation and coordination set forth in § 66.5 of this part.

3. Section 66.4 is revised to read as follows:

§ 66.4 Appointment of consultation coordination officer.

The Associate Director for State and Local Programs and Support (Associate Director) may appoint an employee of the Federal Emergency Management Agency, or other designated Federal employee, as the Consultation Coordination Officer, for each community when an analysis is undertaken to establish or to modify flood elevations pursuant to a new study or a restudy. When a CCO is appointed by the Associate Director, the responsibilities for consultation and coordination as set forth in Section 66.5 shall be carried out by the CCO. The Associate Director shall advise the community and the state coordinating agency, in writing, of this appointment.

4. Section 66.5 is revised to read as follows:

§ 66.5 Responsibilities for consultation and coordination.

(a) Contact shall be made with appropriate officials of a community in which a proposed investigation is undertaken, and with the state coordinating agency.

(b) Local dissemination of the intent and nature of the investigation shall be encouraged so that interested parties will have an opportunity to bring relevant data to the attention of the community and to the Associate Director.

(c) Submission of information from the community concerning the study shall be encouraged.

(d) Appropriate officials of the community shall be fully informed of (1) The responsibilities placed on them by the Program, (2) the administrative procedures followed by the Federal Emergency Management Agency, (3) the community's role in establishing elevations, and (4) the responsibilities of the community if it participates or continues to participate in the Program.

(e) Before the commencement of an initial Flood Insurance Study, the CCO or other FEMA representative, together with a representative of the organization undertaking the study, shall meet with officials of the community. The state coordinating agency shall be notified of this meeting and may attend. At this meeting, the local officials shall be informed of (1) The date when the study will commence, (2) the nature and purpose of the study, (3) areas involved, (4) the manner in which the study shall be undertaken, (5) the general principles to be applied, and (6) the intended use of the data obtained. The community shall be informed in writing if any of the six preceding items are or will be changed after this initial meeting and during the course of the ongoing study.

(f) The community shall be informed in writing of any intended modification to the community's final flood elevation determinations or the development of new elevations in additional areas of the community as a result of a new study or restudy. Such information to the community will include the data set forth in paragraph (e) of this section. At the discretion of the Chief of the Natural and Technological Hazards Division in each FEMA Regional Office, a meeting may be held to accomplish this requirement.

§ 66.6 [Removed]

5. Section 66.6 is removed.

(42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978 (CFR 1978 Comp. 329) and Executive Order 12127 (44 FR 19367)) (Catalog of Federal Domestic Assistance Number 83.100 of the National Flood Insurance Program)

Issued: December 28, 1981.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

Finding of No Significant Impact on Environment by Revising Procedures for Consultation with Local Officials

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1508), the Federal Emergency Management Agency (FEMA) has proposed action to revise its existing procedures for providing consultation with local officials.

The assessment concludes that there will be no significant impact on the natural or man-made environment as a result of the implementation of this proposed program.

It is hereby found that this action does not constitute a major Federal action significantly affecting the quality of the human environment. On this basis, an environmental impact statement will not be prepared.

Copies of the environmental assessment are available for inspection at: Federal Emergency Management Agency, Room 834, 500 C Street SW., Washington, D.C. 20472, Telephone (202) 287-0300.

A limited number of single copies are available and may be obtained by writing to the above address.

Dated: December 28, 1981.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

[FR Doc. 82-383 Filed 1-6-82; 8:45 am]

BILLING CODE 6718-01-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Scottsdale, Ariz., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Scottsdale, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Scottsdale, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition

of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 045012A Panel 20, published on October 6, 1980, in 45 FR 66116, indicates that Lot 183, Continental Villas, Scottsdale, Arizona, as recorded in Book 121, Page 35, in the Office of the Recorder, Maricopa County, Arizona, is within the Special Flood Hazard Area.

Map No. H & I 045012A Panel 20 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on January 9, 1976. This Lot is in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 21, 1981.

Lee M. Thomas,
Associate Director, State and Local Programs
and Support.

[FR Doc. 82-385 Filed 1-6-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Unincorporated Area of Washington County, Md., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Washington County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Washington County, Maryland, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 7, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 240070, Panel No. 0150A, published on October 6, 1980, in 45 FR

66039, indicates that a 1.48-acre parcel of land as shown on the drawing entitled "Plat of Lot No. 1 for Daniel J. Shank and wife" dated July, 1980, prepared by J. H. Seibert, P.E., being part of a 41.25-acre parcel of land, situated in District No. 20, Unincorporated Area of Washington County, Maryland, as recorded in Liber 382, Page 210, in the Office of the Clerk of the Circuit Court of Washington County, Maryland, is located within the Special Flood Hazard Area.

Map No. 240070, Panel No. 0150A, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on May 1, 1978. The property is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(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 Associate Director, State and Local Programs and Support)

Issued: December 21, 1981.

Lee M. Thomas,
Associate Director, State and Local Programs
and Support.

[FR Doc. 82-386 Filed 1-6-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Bedford, Tex., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Bedford, Texas. It has been

determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Bedford, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 480585A Panel 01, published on October 6, 1980, in 45 FR 66097, indicates that Lots 5, 6, 11, and 12, Whisperwood, Section One, Bedford, Texas, as recorded in Volume 388-123, Page 1, in the Office of the Clerk, Tarrant County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480585A Panel 01 is hereby corrected to reflect that the existing structures located on the above mentioned lots are not within the Special Flood Hazard Area identified on July 18, 1977. These structures are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 21, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-387 Filed 1-6-82; 8:45 am]

BILLING CODE 6718-03-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

Listing of Existing Information Collection Requirements

AGENCY: National Transportation Safety Board.

ACTION: Technical amendments.

SUMMARY: This document amends the National Transportation Safety Board's regulations to include OMB control numbers at the places in the regulations where current information collection requirements are described.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: William H. Park 382-6715.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and assigned the control numbers contained in the listing.

Text of the Amendments

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

Accordingly, § 830.15 of Title 49 is

amended by revising paragraph (a) to read as follows:

§ 830.15 Reports and statements to be filed.

(a) *Reports.* The operator of an aircraft shall file a report on Board Form 6120.1 (OMB No. 3147-005) or Board Form 7120.2 (OMB No. 3147-0001)² within 10 days after an accident, or after 7 days if an overdue aircraft is still missing. A report on an incident for which notification is required by § 830.5(a) shall be filed only as requested by an authorized representative of the Board.

Dated: December 30, 1981.

B. Michael Levins,

Director, Bureau of Administration.

[FR Doc. 82-219 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-58-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Thirtieth Rev. S. O. No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Thirtieth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., December 31, 1981, and continuing in effect until 11:59 p.m., January 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

Decided December 30, 1981.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254 (RITEA), the Commission is authorizing various railroads to provide

interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding at Item 10D., the authority for Missouri Pacific Railroad Company (MP) to operate from Wichita, Kansas, to Kechi, Kansas. Appendix A is further revised by adding, at Item 12B., the authority for Cadillac and Lake City Railway Company (CLK) to operate to Falcon, Colorado; and, at Item 12C., the authority to operate to Simla, Colorado, which are extensions of existing authority.

Appendix A is further revised by adding, at Item 23, the authority for the North Central Texas Railway (NCTR) to operate between Dallas and Chico, Texas; at item 24, the authority for the Enid Central Railway (ECTR) to operate between North Enid and Kremlin, Oklahoma; and, at Item 25, the authority for the North Central Oklahoma Railway (NCOR) to operate Ponca City and North Enid, Oklahoma, and between Mangum and Chicasha, Oklahoma. The operations authorized in Items 23, 24, and 25 represent a partial continuation of services previously provided by the Oklahoma, Kansas and Texas Railroad Company (OKKT) which terminate December 31, 1981. In granting this authority, the Railroad Service Board has recognized the wishes of the Trustee and the Bankruptcy Court, and, in so doing, has denied a similar application by the Burlington Northern (BN) which contained provisions for equal compensation to the estate. The authority granted herein will remain in force so long as NCTR, ECTR, and NCOR commence service immediately over all authorized line segments which are currently operable. The Board appreciates BN's willingness immediately to provide service over certain of the lines, and has considered the substantial shipper support in favor of BN's proposed operation. We will retain BN's application so that in the event the authorized interim operators are unable to provide service, we may authorize BN to commence requested operations.

Finally, Appendix A, to the previous

order, was revised by deleting, at Item 12, the authority for the Southern Railway to serve Memphis, Tennessee, as requested by the carrier. All succeeding items were renumbered accordingly.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B of this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service order 1473.

In the matter of various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

(a) Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a), Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations

under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties, or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

1. The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the

time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 11:59 p.m., December 31, 1981.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Public Law 96-254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members John H. O'Brien, William F. Sibbald, Jr., and Melvin F. Clemens, Jr. William F. Sibbald, Jr. not participating.

Agatha L. Mergenovich,
Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. Louisiana and Arkansas Railway Company (LA):

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. Peoria and Pekin Union Railway Company (PPU): All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

3. Union Pacific Railroad Company (UP):

A. Beatrice, Nebraska.
B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. Toledo, Peoria and Western Railroad Company (TPW):

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. Chicago and North Western Transportation Company (CNW):

A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. From Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).

F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. From Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. From Briceyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. From Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6).

P. Sibley, Iowa.

Q. Worthington, Minnesota.

R. Altoona to Pella, Iowa.

S. Carlisle to Indianola, Iowa.

T. Omaha, Nebraska, (between milepost 502 to milepost 504).

U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).

V. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

6. Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):

A. From West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. Washington, Iowa.

C. From Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

D. From Davenport to Iowa City, Iowa.

E. At Davenport, Iowa.

7. Davenport, Rock Island and North Western Railway Company (DRI):

A. Moline, Illinois.

B. Rock Island, Illinois, including 26th Street yard.

C. From Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex.

D. From Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island Arsenal.

8. St. Louis Southwestern Railway Company (SSW):

A. From Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. At North Topeka and Topeka, Kansas.

9. Little Rock & Western Railway Company (LRWN):

A. From Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).

B. From Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

10. Missouri Pacific Railroad Company (MP):

A. From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. From Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. From Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

† D. From Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

11. Norfolk and Western Railway Company (NW): is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

12. Cadillac and Lake City Railway Company (CLK):

A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado.

* B. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3).

* C. From Simla, Colorado (milepost 558.3) to but not including Caruso, Kansas (milepost 429.3), with over-head rights from Caruso to Colby, Kansas, in order to effect interchange with the Union Pacific.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado.

13. Baltimore and Ohio Railroad Company (BO):

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

14. Keota Washington Transportation Company (KWTR):

† Added.
* Changed.

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. At Vinton, Iowa (milepost 120.0 to 123.0).
C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

15. *The La Salle and Bureau County Railroad Company (LSBC):*

A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois. Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. From Gresham (Subdivision 1, milepost 10.0) to South Chicago (Subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

16. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. At Alva, Oklahoma.

17. *The Brandon Corporation (BRAN):*

A. From Belleville, Kansas (milepost 226.1), to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

18. *Iowa Northern Railroad Company (IANR):*

A. From Cedar Rapids, Iowa (milepost 100.5), to Waterloo, Iowa (milepost 150.76).

B. From Shell Rock, Iowa (milepost 172.1), to Manly, Iowa (milepost 225.1).

C. At Vinton, Iowa, and west on the Iowa Falls Line to Milepost 24.3.

19. *Iowa Railroad Company (IRRC):*

A. From Council Bluffs (milepost 490.15) to Dexter, Iowa (milepost 393.0) a distance of approximately 97.15 miles.

B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

20. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. From Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

21. *Chicago Short Line Railway Company (CSL):*

A. From Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

22. *Kyle Railroad Company (Kyle):*

A. From Belleville (milepost 189.4) to Phillipsburg, Kansas (milepost 282.0), a distance of approximately 92.6 miles.

† 23. *North Central Texas Railway, Inc. (NCTR):*

A. From Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).

B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

† 24. *Enid Central Railway, Inc. (ECTR):*

A. From North Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.30 to milepost 0.02.

† 25. *North Central Oklahoma Railway, Inc. (NCOR):*

A. From Ponca City, Oklahoma (milepost 54.8) to Enid, Oklahoma (milepost 0.30).

B. From Mangum, Oklahoma (milepost 97.2) to Chichasha, Oklahoma (milepost 0.0).

[FR Doc. 82-352 Filed 1-6-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Sixth Rev. 5.0 No. 1495]

Burlington Northern Railroad Co. and Fort Worth and Denver Railway Co. Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Sixth Revised Service Order No. 1495.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes the Burlington Northern and Fort Worth and Denver to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation. **EFFECTIVE DATE:** 12:01 a.m., January 4, 1982, and continuing in effect until 11:59 p.m., January 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840, 275-1559.

Decided December 31, 1981.

Pursuant to section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96-254, (RITEA), the Commission is authorizing Burlington Northern Railroad Company (BN) and Fort Worth and Denver Railway Company (FWD) to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-

range solutions, this order permits BN and FWD to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Appendix A of the previous order is revised by the addition of the following:

Item 1. E. Lawton, Oklahoma.

BN's request to operate between Chico and Dallas, Texas, and between Enid and Kremlin, Oklahoma, is denied without prejudice to reconsideration should the authority granted to North Central Texas Railway and Enid Central Railway not be exercised.

It is the opinion of the Commission that an emergency exists requiring that the BN and FWD, as indicated in the attached appendix, be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1495 Service order 1495.

(a) Burlington Northern Inc. (BN) and Fort Worth and Denver Railway Company (FWD) are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the BN and FWD to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the BN and FWD; or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least thirty (30) days notice to the Railroad Service Board and affected shippers.

(e) BN and FWD, as authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of operations over the RI lines authorized in

paragraph (a), BN and FWD shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties, or failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by BN and FWD over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

1. The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, the interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the division shall be those hereafter fixed by the Commission in accordance with pertinent authority

conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, the carriers providing service under this order shall use the employees who normally would have performed the work in connection with the traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., January 4, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and section 122, Pub. L. 96-254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members John H. O'Brien, William F. Sibbald, Jr., and Melvin F. Clemens, Jr. William F. Sibbald, Jr., not participating.
Agatha L. Mergenovich,
Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operator

1. Burlington Northern Railroad Company (BN):

A. Burlington, Iowa (milepost 0 to milepost 2.06).

B. Mossville, Illinois (milepost 148.9) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).

C. Phillipsburg, Kansas (milepost 282) to Caruso, Kansas (milepost 430).

D. At Okeene, Oklahoma.

E. At Lawton, Oklahoma.

2. Fort Worth and Denver Railway Company (FWD):

†Added.

A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. North Fort Worth, Texas (milepost 603.0 to 611.4).

[FR Doc. 82-354 Filed 1-6-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1056

[Ex Parte No. MC-19 (Sub-No. 36)]

Household Goods Carriers Operational Practices

AGENCY: Interstate Commerce Commission.

ACTION: Correction of Modified Form OCP-100.

SUMMARY: On December 28, 1981, at 46 FR 62654 the Commission's Office of Compliance and Consumer Assistance published a Modification of Form OCP-100 which contains a Moving Service Questionnaire. The phrasing of questions 8, 9, and 10 of the questionnaire was incorrect. The corrected phrasing of the text is set out below.

FOR FURTHER INFORMATION CONTACT: Ray G. Atherton, Jr., 202-275-7844, or Patricia M. Schulze, 202-275-7841.

SUPPLEMENTARY INFORMATION: The phrasing of questions 8, 9, and 10 of the Moving Service Questionnaire appearing at 46 FR 62657 is corrected to read as follows:

8. Were the final charges (check one)
 More Less The same as the estimated charges?

9. Was your shipment picked up (check one)
 Before On After the agreed pickup date?

10. Was your shipment delivered (check one)
 Before On After the agreed delivery date?

By the Commission, John H. O'Brien, Acting Director, Office of Compliance and Consumer Assistance.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-353 Filed 1-6-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 47, No. 4

Thursday, January 7, 1982

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 Parts 1134, 1136, and 1137

[Docket Nos. AO-326-A21, AO-301-A17 and AO-309-A23]

Milk in the Eastern Colorado, Western Colorado, and Great Basin Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rules.

SUMMARY: This hearing is being held to consider proposals submitted by cooperative associations and handlers to amend certain provisions of each of the three milk marketing orders. The proposals would adopt the uniform classification and order format provisions incorporated in a large number of other milk orders in 1974, and would provide for a single butterfat differential in each of the three milk orders. In the Eastern Colorado and Western Colorado milk orders, the proposals would change the Class II differential. For the Eastern Colorado milk order only, the proposals would change the pool distributing plant provisions. Proponents say that the requested order changes are needed to insure orderly marketing in the areas.

DATE: The hearing will begin on February 2, 1982.

ADDRESS: The hearing will be held at the Holiday Inn Airport, 4040 Quebec Street, Denver, Colorado 80216.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialists, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn Airport, 4040 Quebec Street, Denver, Colorado 80216, beginning at 9:00 a.m. local time on Tuesday, February 2, 1982, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas.

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 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 appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Beginning January 1, 1981, actions under the Federal milk order program became subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modification of these proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mountain Empire Dairymen's Association, Inc., and Western Colorado Producers Association

Proposal No. 1

Amend the Eastern Colorado milk order to provide for (a) the uniform classification and order format provisions that were incorporated into a large number of other milk orders in 1974, (b) a single butterfat differential,

and (c) a Class II differential of 10 cents as follows:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.

1137.1 General provisions.

Definitions

1137.2 Eastern Colorado marketing area.

1137.3 Route disposition.

1137.4 [Reserved]

1137.5 [Reserved]

1137.6 [Reserved]

1137.7 Pool plant.

1137.8 Nonpool plant.

1137.9 Handler.

1137.10 Producer-handler.

1137.11 [Reserved]

1137.12 Producer.

1137.13 Producer milk.

1137.14 Other source milk.

1137.15 Fluid milk product.

1137.16 Fluid cream product.

1137.17 Filled milk.

1137.18 Cooperative association.

Handler Reports

1137.30 Reports of receipts and utilization.

1137.31 Payroll reports.

1137.32 Other reports.

Classification of Milk

1137.40 Classes of utilization.

1137.41 Shrinkage.

1137.42 Classification of transfers and diversions.

1137.43 General classification rules.

1137.44 Classification of producer milk.

1137.45 Market administrator's reports and announcements concerning classification.

Class Prices

1137.50 Class prices.

1137.51 Basic formula price.

1137.52 Plant location adjustments for handlers.

1137.53 Announcement of class prices.

1137.54 Equivalent price.

Uniform Price

1137.60 Pool obligation of each handler.

1137.61 Computation of uniform price.

1137.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1137.70 Producer-settlement fund.

1137.71 Payments to the producer-settlement fund.

1137.72 Payments from the producer-settlement fund.

1137.72 Payments to producers and to cooperative associations.

- 1137.74 Butterfat differential.
 1137.75 Plant location adjustments for producers and on nonpool milk.
 1137.76 Payments by handler operating a partially regulated distributing plant.
 1137.77 Adjustment of accounts.
 1137.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

- 1137.85 Assessment for order administration.
 1137.86 Deduction for marketing services.

Subpart—Order Regulating Handling

General Provisions

§ 1137.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1137.2 Eastern Colorado marketing area.

"Eastern Colorado marketing area" hereinafter called the "marketing area" means all the territory within the perimetric boundaries of the counties listed below, including all territory (municipal, State, or Federal) installations, institutions and other establishments:

Colorado Counties

Adams, Arapahoe, Boulder, Cheyenne, Clear Creek, Crowley, Custer, Denver, Douglas, Elbert, El Paso, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Las Animas, Larimer, Lincoln, Logan, Morgan, Otero, Park, Phillips, Pueblo, Sedgwick, Teller, Washington, Weld, Yuma.

Kansas Counties

Cheyenne, Logan, Sherman, Wallace.

§ 1137.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a nonpool plant: *Provided*, That packaged fluid milk products, except filled milk, that are transferred to a distributing plant from a plant with route disposition in the marketing area, and which are classified as Class I under § 1137.40(a), shall be considered as a route disposition from the transferor plant, rather than from the transferee plant, for the single purpose of qualifying it as a pool distributing plant under § 1137.7(a)(1).

§§ 1137.4-1137.6 [Reserved]

§ 1137.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which

during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk; and
 (2) Ten percent or more of such receipts, or 12,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved to distributing pool plant(s) as fluid milk products, except filled milk. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) Any distributing plant from which there is less than an average of 300

pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1137.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1137.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1137.12;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association, if the cooperative association notifies the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for all such milk. Such milk shall be deemed to have been received by such cooperative association at the location of the pool plant to which delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1137.7(c).

§ 1137.10 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a milk processing plant from which there is route disposition in the marketing area and who:

(1) Receives no fluid milk products during the month from dairy farmers;

(2) Receives no fluid milk products during the month from any other source except by transfer from a pool plant; and

(3) Receives no other source milk for reconstitution into fluid milk products.

(b) Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the volume of fluid milk products (excluding transfers from pool plants) and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1137.11 [Reserved]

§ 1137.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a) (1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom at least three deliveries of milk are received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of its member-producer milk received at distributing pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative according to a method approved by the market administrator.

(2) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom at least

three deliveries of milk are received during the month at his distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purposes of the requirements of § 1137.7, milk diverted for the account of the operator of a distributing pool plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purposes of location adjustments pursuant to §§ 1137.52 and 1137.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1137.44(a)(8)(iii) and the corresponding step of § 1137.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1137.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1137.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and condition provided in § 1137.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1137.9(b), subject to the limitations and conditions provided in § 1137.12; and

(2) For which the cooperative association is the handler pursuant to § 1137.9(c).

§ 1137.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1137.40(b)(1) from any source other than producers, handlers described in § 1137.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1137.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1137.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1137.40(b)(1)) for which the handler fails to establish a disposition.

§ 1137.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1137.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1137.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1137.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

- (a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";
- (b) To have full authority in the sale of milk of its members; and
- (c) To be engaged in making collective sales, or marketing milk or its products for its members.

Handler Reports**§ 1137.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

- (1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;
- (2) Receipts of milk from handlers described in § 1137.9(c);
- (3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;
- (4) Receipts of other source milk;
- (5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1137.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1137.9 (b) and (c) shall report:

- (1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and
 - (2) The utilization or disposition of all such receipts.
- (d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1137.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1137.9 (a), and (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

- (1) His name and address;
- (2) The total pounds of milk received from such producer;
- (3) The average butterfat content of such milk; and
- (4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1137.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1137.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1137.9 (a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator as follows:

- (1) The name of the plant to which diverted;
- (2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1137.30 and 1137.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk**§ 1137.40 Classes of utilization.**

Except as provided in § 1137.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1137.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

- (1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and
- (2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

- (1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;
- (2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk of filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products of fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

- (i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;
- (ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;
- (iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;
- (iv) Plastic cream, frozen cream, and anhydrous milkfat;
- (v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1137.15; and

(6) In shrinkage assigned pursuant to § 1137.41(a) to the receipts specified in § 1137.41(a)(2) and in shrinkage specified in § 1137.41 (b) and (c).

§ 1137.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1137.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph in amounts equal to 50 times the maximum amount that may be computed pursuant to paragraph (b) (1) through (6) of this section; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1137.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1137.9 (b) or (c), but not in

excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1137.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1137.44(a)(7) or the corresponding step of § 1137.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1137.44(a) (11) or (12) or the corresponding steps of § 1137.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in

the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1137.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted, in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or divortor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1137.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1137.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1137.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1137.60.

§ 137.43 General classification rules.

In determining the classification of producer milk pursuant to § 1137.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1137.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1137.9(b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1137.40, 1137.41, and 1137.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1137.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1137.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1137.9(a) for each of his pool plants separately and of each handler described in § 1137.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1137.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1137.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1137.40(b)(1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1137.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph

(a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1137.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received. For purposes of this subtraction at a pool plant operated by a cooperative association, skim milk in fluid milk products transferred to the pool plant of another handler shall be added to the remaining pounds of skim milk in each class prorata to the market average utilization announced pursuant to § 1137.45(a);

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining

in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1137.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler). For purposes of such computation at a pool plant of a cooperative association, the pounds remaining shall include any remainder of the quantity added pursuant to paragraph (a)(11) of this section;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of

skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from an other pool plant according to the classification of such products pursuant to § 1137.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1137.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1137.42(e) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1137.45 Market administrator's reports and announcements concerning classification

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1137.44 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class prices

§ 1137.50 Class prices.

Subject to the provisions of § 1137.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.30.

(b) *Class II milk.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III milk.* The Class III price shall be the basic formula price for the month.

§ 1137.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

§ 1137.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1137.9(c) at a pool plant, or diverted to a nonpool plant, located more than 50 miles by shortest highway distance as measured by the market administrator, from the plant to the nearest County Courthouse located in Denver, Colo.; Pueblo, Colo.; or Colorado Springs, Colo., and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1137.50(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 75 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1137.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the lease location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1137.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1137.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1137.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1137.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1137.42(e) in each class as determined pursuant to § 1137.44 by the applicable class prices and add the resulting amounts:

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1137.44(a)(14) and the corresponding step of § 1137.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1137.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1137.44(a)(9) and the

corresponding step of § 1137.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7)(i) through (iv) and the corresponding step of § 1137.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7)(v) and (vi) and the corresponding step of § 1137.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(11) and the corresponding step of § 1137.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1137.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1137.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1137.60 for all handlers who filed the reports prescribed by § 1137.30 for the month and who made the payments pursuant to §§ 1137.71 and 1137.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1137.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1137.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location adjustment is applicable.

§ 1137.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1137.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1137.71, 1137.76, and 1137.77, subject to the provision of § 1137.78 and out of which he shall make all payments pursuant to §§ 1137.72 and 1137.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1137.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1137.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1137.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1137.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1137.73(c), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1137.60(f).

(b) On or before the 25th day after the end of the month each person who operated another order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1137.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1137.71(a)(2) exceeds the amount computed pursuant to § 1137.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1137.73 Payments to producers and to cooperative associations.

Except as provided in paragraphs (b) and (c) of this section, each handler except a cooperative association shall make payment as specified in paragraph

(a) of this section to each producer from whom milk is received:

(a)(1) On or before the last day of each month, to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received during the first 15 days of the month at the Class III price for the preceding month.

(2) On or before the 16th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1137.61, as adjusted by the butterfat differential specified in § 1137.74 and location adjustments specified in § 1137.75, plus or minus adjustments for errors made in previous payments to such producers and less:

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Deductions for marketing services pursuant to § 1137.86; and

(iii) Proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1137.72 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) For milk received from a pool plant operated by a cooperative association or from a cooperative association that is a handler pursuant to § 1137.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price pursuant to § 1137.61, as adjusted pursuant to §§ 1137.74 and 1137.75, less payment made pursuant to paragraph (c)(1) of this section.

(d) In making the payments to producers pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1137.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one

price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1137.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from pool plants operated by cooperative associations, and from handlers described in § 1137.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of such nonpool plant, each at the rates set forth in § 1137.52; and

(b) For purposes of computations pursuant to §§ 1137.71 and 1137.72 the uniform price shall be adjusted at the rates set forth in § 1137.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1137.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1137.30(b) and § 1137.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1137.60 for the partially regulated distributing plant if the plant has been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1137.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1137.60 for such handler shall include, in lieu of the value of other source milk specified in § 1137.60(f) less the value of such other source milk specified in § 1137.71(a)(2)(ii), a value of milk determined pursuant to § 1137.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1137.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1137.30(b) and 1137.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1137.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1137.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports,

books, records, or accounts, or other verification discloses errors resulting in moneys due a producer, a cooperative association, or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1137.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1137.71 or 1137.77 relative to payments to the producer settlement fund shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

Administrative Assessment and Marketing Service Deduction

§ 1137.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1137.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1137.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1137.44(a)(7) and (11) and the corresponding steps of § 1137.44(b), except such other source milk that is excluded from the computations pursuant to § 1137.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1137.76(a)(2).

§ 1137.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1137.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end

of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

Proposal No. 2.

Amend the Western Colorado milk order to provide for (a) the uniform classification and order format provisions that were incorporated into a large number of other milk orders in 1974, (b) a single butterfat differential, and (c) a Class II differential of 10 cents as follows:

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.

1134.1 General provisions.

Definitions

1134.2 Western Colorado marketing area.

1134.3 Route disposition.

1134.4 [Reserved]

1134.5 Distributing plant.

1134.6 Supply plant.

1134.7 Pool plant.

1134.8 Nonpool plant.

1134.9 Handler.

1134.10 Producer-handler.

1134.11 [Reserved]

1134.12 Producer.

1134.13 Producer milk.

1134.14 Other source milk.

1134.15 Fluid milk product.

1134.16 Fluid cream product.

1134.17 Filled milk.

1134.18 Cooperative association.

Handler Reports

1134.30 Reports of receipts and utilization.

1134.31 Payroll reports.

1134.32 Other reports.

Classification of Milk

1134.40 Classes of utilization.

Sec.

1134.41 Shrinkage.

1134.42 Classification of transfers and diversions.

1134.43 General classification rules.

1134.44 Classification of producer milk.

1134.45 Market administrator's reports and announcements concerning classification.

Class Prices

1134.50 Class prices.

1134.51 Basic formula price.

1134.52 Plant location adjustments for handlers.

1134.53 Announcement of class prices.

1134.54 Equivalent price.

Uniform Price

1134.60 Pool obligation of each handler.

1134.61 Computation of uniform price.

1134.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1134.70 Producer-settlement fund.

1134.71 Payments to the producer-settlement fund.

1134.72 Payments from the producer-settlement fund.

1134.73 Payments to producers and to cooperative associations.

1134.74 Butterfat differential.

1134.75 Plant location adjustments for producers and on nonpool milk.

1134.76 Payments by handler operating a partially regulated distributing plant.

1134.77 Adjustment of accounts.

1134.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1134.85 Assessment for order administration.

1134.86 Deduction for marketing services.

Subpart—Order Regulating Handling

General Provisions

§ 1134.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1134.2 Western Colorado marketing area.

"Western Colorado marketing area", hereinafter called the "marketing area", means all the territory within the outer boundaries of the following counties in the State of Colorado:

Delta, Garfield, Mesa, Montrose.

§ 1134.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a delivery in bulk to a nonpool plant.

§ 1134.4 [Reserved]

§ 1134.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are pasteurized or packaged and from which there is route disposition of Grade A fluid milk products in the marketing area.

§ 1134.6 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a pool distributing plant.

§ 1134.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk; and

(2) Ten percent or more of such receipts, or 2,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved in the form of fluid milk products, except filled milk, to distributing pool plants.

Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August, unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any of the following months of March through August unless it fulfills the shipping requirements of this paragraph for such month(s).

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) of this section and there is more route disposition (except filled milk) in this marketing area than in the marketing area defined under such other order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of March through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) Any distributing plant from which there is less than an average of 200 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1134.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1134.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1134.12;

(c) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by the association or by a hauler under contract to the association;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1134.7(c); and

(g) A vendor (any person who does not operate a plant described in paragraph (a), (d), (e) or (f) of this section but who engages in the business of receiving fluid milk products for resale and distributes to retail and wholesale outlets, via a mobile delivery vehicle, packaged fluid milk products received from such a plant).

§ 1134.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family, or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area: *Provided, That:*

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1134.11 [Reserved]

§ 1134.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements for fluid consumption of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a) (1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom not less than 3 days' production was received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of its member-producer milk received at pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. Such request shall specify the basis for assigning overdiverted milk to the producer-members of each cooperative association, at a time and in a manner approved by the market administrator.

(2) A handler may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom not less than 3 days' production was received during the month at the pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler, at a time and in a manner approved by the market administrator, shall specify the dairy

farmers whose milk is ineligible as producer milk.

(3) For the purpose of the requirements of § 1134.7, milk diverted for the account of the operator of a distributing pool plant, except an operator who is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purpose of location adjustments pursuant to §§ 1134.52 and 1134.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the pool plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1134.44(a)(8)(iii) and the corresponding step of § 1134.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1134.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1134.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1134.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1134.9(b), subject to the limitations and conditions provided in § 1134.12; and

(2) For which the cooperative association is the handler pursuant to § 1134.9(c). If the milk received at a pool plant from a handler described in § 1134.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be

producer milk received by the handler described in § 1134.9(c) at the location of the pool plant.

§ 1134.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1134.40(b)(1) from any source other than producers, handlers described in § 1134.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1134.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1134.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1134.40(b)(1)) for which the handler fails to establish a disposition.

§ 1134.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1134.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or

without the addition of other ingredients.

§ 1134.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk (or oil).

§ 1134.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of, or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

Handler Reports

§ 1134.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1134.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1134.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports

required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1134.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1134.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1134.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1134.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1134.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1134.9 (a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1134.30 and 1134.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1134.40 Classes of utilization.

Except as provided in § 1134.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1134.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1134.15; and

(6) In shrinkage assigned pursuant to § 1134.41(a) to the receipts specified in § 1134.41(a)(2) and in shrinkage specified in § 1134.41(b) and (c).

§ 1134.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1134.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section, the maximum pounds computed pursuant to such paragraph divided by 0.02; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk

(excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1134.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1134.9(b) of (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurements at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1134.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1134.44(a)(7) or the corresponding step of § 1134.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1134.44(a)(11) or (12) or the corresponding steps of § 1134.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and

utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1134.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to this receipts of skim milk and butterfats, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(a) and (b) of this section are met, transfers or diversions

in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1134.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1134.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1134.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1134.60.

§ 1134.43 General classification rules.

In determining the classification of producer milk pursuant to § 1134.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1134.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1134.9(b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1134.40, 1134.41, and 1134.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1134.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1134.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1134.9(a) for each of his pool plants separately and of each handler described in § 1134.9(b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1134.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were in

inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1134.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1134.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of re-constituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph

(a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1134.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1134.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to

paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount,

beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1134.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be

adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1134.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1134.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1134.42(e) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1134.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all

handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1134.44 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1134.50 Class prices.

Subject to the provisions of § 1134.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.00.

(b) *Class II milk.* The Class II price shall be the basic formula price for the month, plus 10 cents.

(c) *Class III milk.* The Class III price shall be the basic formula price for the month.

§ 1134.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-

score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

§ 1134.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1134.9(c) at a pool plant, located more than 100 miles by shortest highway distance as measured by the market administrator, from the courthouse in Grand Junction, Colorado, and which is classified as Class I milk or assigned Class I location adjustment credit under paragraph (b) of this section, the price computed pursuant to § 1134.30(a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1134.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1134.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1134.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1134.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of this pool plants and of each handler described in § 1134.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1134.42(e) in each class as determined pursuant to § 1134.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1134.44(a)(14) and the corresponding step of § 1134.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1134.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1134.44(a)(9) and the corresponding step of § 1134.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (i) through (iv) and the corresponding step of § 1134.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (v) and (vi) and the corresponding step of § 1134.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(11) and the corresponding step of § 1134.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an

equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1134.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1134.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1134.60 for all handlers who filed the reports prescribed by § 1134.30 for the month and who made the payments pursuant to §§ 1134.71 and 1134.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1134.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

- (1) The total hundredweight of producer milk; and
- (2) The total hundredweight for which a value is computed pursuant to § 1134.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1134.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1134.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all

payments made by handlers pursuant to §§ 1134.71, 1134.76, and 1134.77, subject to the provision of § 1134.78 and out of which he shall make all payments pursuant to §§ 1134.72 and 1134.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1134.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1134.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1134.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1134.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1134.73(e), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received (not to be less than the Class III price) of other source milk for which a value is computed pursuant to § 1134.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool order, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(c) Each vendor shall pay the market administrator on or before the 25th day

after the end of the month at the difference between the value of the skim milk and butterfat in fluid milk products received from a producer-handler during the month at the Class I price applicable at the location of the producer-handler's plant (but not less than the Class III price) and its value at the Class III price subject to the following conditions:

(1) The quantities of skim and butterfat in fluid milk products on which payments shall be made pursuant to this section shall not exceed the vendor's Class I disposition in the marketing area during the month; and

(2) This section shall not apply to a vendor whose total Class I disposition is obtained from a producer-handler, or whose total receipts and disposition of fluid milk products are considered as a part of the receipts and disposition of the producer-handler pursuant to § 1134.10(b)(3).

§ 1134.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1134.71(a)(2) exceeds the amount computed pursuant to § 1134.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1134.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(a) Not later than the last day of the month, to each producer from whom he received milk during the first 18 days of the month, a partial payment for the milk received during the first 15 days of the month, at the Class III price for the preceding month.

(b) Not later than the 16th day of the month, for milk received during the preceding month, an amount computed at not less than the uniform price, per hundredweight, pursuant to § 1134.61, as adjusted by the butterfat differential specified in § 1134.74, location adjustment specified in § 1134.75 and adjustments for errors made in previous payments minus:

(1) Payments made pursuant to paragraph (a) of this section;

(2) Deductions for marketing services pursuant to § 1134.86; and

(3) Deductions approved by the market administrator and authorized in writing by the producer. If the handler has not received full payment for the delivery period from the market administrator pursuant to § 1134.72, he may reduce his total payments to all producers uniformly by the amount owing to him by the market administrator. The handler shall, however, complete all payments not later than the 16th day of the month following receipt of the balance from the market administrator.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim by the cooperative association, each handler shall pay to the cooperative association on or before the second day preceding the dates set out in paragraphs (a) and (b) of this section an amount equal to the sum of the individual payments otherwise payable to the producer members of such organization. This payment shall be made for all milk of such producer certified by the cooperative association as a member, beginning the first day of the month following receipt of the certification and ending the last day of the month next preceding the date on which a written notice from the cooperative association terminating the membership was received.

(2) A copy of the request for payment, promise to reimburse, and certified list of members, shall be filed simultaneously with the market administrator. He may verify the information by auditing the records of the cooperative association. Exceptions to the accuracy of the membership certification, by a producer or by a handler, shall be made in writing to the market administrator for his determination.

(d) In making the payments to producers under paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk, a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required under this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) For milk received from a pool plant operated by a cooperative association or from a handler described in § 1134.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative associations for milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price, as adjusted pursuant to §§ 1134.74 and 1134.75, less payment made pursuant to paragraph (e)(1) of this section.

§ 1134.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1134.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from a pool plant operated by a cooperative association, and from a handler described in § 1134.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which diverted, each at the rates set forth in § 1134.52; and

(b) For purposes of computations pursuant to §§ 1134.71 and 1134.72 the uniform price shall be adjusted at the rates set forth in § 1134.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1134.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1134.30(b) and § 1134.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From an other nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1134.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1134.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers or reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1134.60 for such handler shall include, in lieu of the value of other source milk specified in § 1134.60(f) less the value of such other source milk specified in § 1134.71(a)(2)(ii), a value of milk determined pursuant to § 1134.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1134.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1134.30(b) and 1134.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1134.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1134.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in moneys due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1134.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1134.71, 1134.76, 1134.77, 1134.85 and 1134.86 shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided*, That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made 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.

Administrative Assessment and Marketing Service Deduction

§ 1134.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1134.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1134.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1134.44(a) (7) and (11) and the corresponding steps of § 1134.44(b), except such other source milk that is excluded from the computations pursuant to § 1134.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1134.76(a)(2).

§ 1134.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1134.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) For producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership

agreement or marketing contract between the cooperative association and its members, and on or before the 14th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction from each producer was computed.

Proposed by Safeway Stores, Inc. Proposal No. 3.

Amend the Great Basin milk order to provide for (a) the uniform classification and order format provisions that were incorporated into a large number of other milk orders in 1974, and (b) a single butterfat differential as follows:

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.

1136.1 General provisions.

Definitions

1136.2 Great Basin Marketing area.
1136.3 Route disposition.
1136.4 [Reserved]
1136.5 Fluid milk plant.
1136.6 [Reserved]
1136.7 Pool plant.
1136.8 Nonpool plant.
1136.9 Handler.
1136.10 Producer-handler.
1136.11 [Reserved]
1136.12 Producer.
1136.13 Producer milk.
1136.14 Other source milk.
1136.15 Fluid milk product.
1136.16 Fluid cream product.
1136.17 Filled milk.
1136.18 Cooperative association.

Handler Reports

1136.30 Reports of receipts and utilization.
1136.31 Payroll reports.
1136.32 Other reports.

Classification of Milk

1136.40 Classes of utilization.
1136.41 Shrinkage.
1136.42 Classification of transfers and diversions.
1136.43 General classification rules.
1136.44 Classification of producer milk.
1136.45 Market administrator's reports and announcements concerning classification.

Class Prices

1136.50 Class prices.
1136.51 Basic formula price.
1136.52 Plant location adjustments for handlers.
1136.53 Announcement of class prices.
1136.54 Equivalent price.

Uniform Price

1136.60 Pool obligation of each handler.

Sec.

- 1136.61 Computation of uniform price.
1136.62 Announcement of uniform price and
butterfat differential.

Payments for Milk

- 1136.70 Producer-settlement fund.
1136.71 Payments to the producer-
settlement fund.
1136.72 Payments from the producer-
settlement fund.
1136.73 Payments to producers and to
cooperative associations.
1136.74 Butterfat differential.
1136.75 Plant location adjustments for
producers and on nonpool milk.
1136.76 Payments by handler operating a
partially regulated distributing plant.
1136.77 Adjustment of accounts.
1136.78 Charges on overdue accounts.

Administrative Assessment and Marketing
Service Deduction

- 1136.85 Assessment for order
administration.
1136.86 Deduction for marketing services.

Subpart—Order Regulating Handling
General Provisions

§ 1136.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made part of this order.

Definitions

§ 1136.2 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all the territory, including all government reservations and installations and all municipalities, within the places listed below:

Utah Counties

Box Elder, Cache (city of Logan only), Carbon, Daggett, Davis, Duchesne, Emery, Grand, Juab, Millard, Morgan, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Weber.

Nevada Counties

Elko, White Pine.

Wyoming Counties

Uinta (town of Evanston only).

Idaho Counties

Bannock, Bear Lake, Bingham, Bonneville, Franklin, Jefferson, Madison.

§ 1136.3 Route disposition.

"Route disposition" means any disposition of fluid milk products (including through a vendor or disposition from a plant or plant store) classified as Class I milk, except in bulk form to fluid milk plants and except Class II and Class III milk disposition to plants which are not fluid milk plants.

§ 1136.4 [Reserved]

§ 1136.5 Fluid milk plant.

"Fluid milk plant" means a plant:
(a) In which milk or milk products (including filled milk) are processed or packaged and from which there is route disposition during the month in the marketing area, or
(b) In which milk is received or processed and from which milk or skim milk is shipped during the month to a plant described in paragraph (a) of this section.

§ 1136.6 [Reserved]

§ 1136.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A fluid milk plant from which there is not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 is disposed of as route disposition, and not less than 15 percent of such receipts are disposed of as route disposition in the marketing area.

(1) For the purpose of determining the qualification pursuant to this paragraph of a fluid milk plant pursuant to § 1136.5(a) operated by a cooperative association, producer milk which such cooperative association causes to be delivered to the pool plant of another handler of diverted therefrom shall be included with receipts of producer milk at such cooperative's plant and the quantity of such milk assigned to Class I pursuant to § 1136.45(d) shall be included as route disposition from such cooperative's plant;

(i) If such a cooperative association operates more than one fluid milk plant as defined in § 1136.5(a), such producer milk and Class I milk shall be included in the computation for whichever plant the cooperative association requests in writing to the market administrator; and

(ii) If no such written request is made, such producer milk and Class I milk shall be prorated among the plants; and

(2) If a handler operates more than one fluid milk plant, the combined receipts and fluid milk products disposition, except filled milk, of any

such plants may be used as the basis for qualifying the respective plants pursuant to the preceding computations specified in this paragraph if a handler in writing so requests the market administrator.

(b) A fluid milk plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the total of receipts at the plant from dairy farmers meeting the inspection requirements described in § 1136.12, milk diverted pursuant to § 1136.13 by the handler operating the plant and other fluid milk products, except filled milk, qualified for distribution for fluid consumption received at the plant are shipped to a plant described in paragraph (a) of this section: *Provided*, That a plant which so qualifies in each of the months of August through January as a pool plant shall be a pool plant in each of the following months of February through July unless the operator requests in written notice to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) The term "pool plant" shall not apply to the following plants:

- (1) A producer-handler plant;
- (2) An exempt plant; and
- (3) Any plant described in paragraph (c)(3)(i) or (ii) of this section shall be exempt from paragraph (a) or (b) of this section, unless the Secretary determines otherwise, if it would be fully regulated subject to the classification and pooling provisions of another order issued pursuant to the Act if not so subject to this part:

(i) Any plant from which there is less route disposition, except filled milk, in the Great Basin marketing area than in the marketing area regulated pursuant to the Act if not so subject to this part; or

(ii) Any plant during the months of February through July which qualifies as a pool plant only pursuant to the proviso of paragraph (b) of this section.

§ 1136.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a fluid milk plant that is neither an other order plant, a producer-handler plant, nor an exempt plant from which there is route disposition in consumer-type packages or dispenser units (other than to a pool plant) in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant, a producer-handler plant nor an exempt plant from which fluid milk products qualified for fluid consumption are shipped during the month to a pool plant.

(e) "Exempt plant" means a governmental agency, Brigham Young University or any approved plant from which the total route disposition is to individuals or institutions for charitable purposes and is without remuneration from such individuals or institutions.

§ 1136.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1136.13;

(c) A cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case the milk is received from producers by the cooperative association;

(d) Any person who operates a partially regulated distributing plant; and

(e) Any other person who operates a fluid milk plant described in § 1136.5(a).

§ 1136.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership of corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area: *Provided*, That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the larger of 3,000 pounds, or 5 percent of his Class I sales, during the month;

(2) Such plant is operated under this complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1136.11 [Reserved]

§ 1136.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means a dairy farmer who produces milk in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable for fluid consumption of agencies of the United States Government located in the marketing area) which milk is delivered

to a pool plant during the month or diverted to a nonpool plant within the limits set forth in § 1136.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1136.44(a)(8)(iii) and the corresponding step of § 1136.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1136.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a tank truck) which is:

(a) Received from the producers at a pool plant but not including milk received from a handler described in § 1136.9(c);

(b) Received by a handler described in § 1136.9(c); or

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant or an exempt plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) A cooperative association may divert for its account only the milk of member producers: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(4) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from

producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (c)(3) and (4) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk; and

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a request in writing with the market administrator on or before the 1st day of the month the agreement is effective. The request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

§ 1136.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1136.40(b)(1) from any source other than producers, handlers described in § 1136.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1136.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1136.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1136.40(b)(1)) for which the handler fails to establish a disposition.

§ 1136.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1136.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1136.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1136.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales, or marketing milk or its products for its members; and

(c) To have its entire activities under the control of its members.

Handler Reports

§ 1136.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1136.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1136.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1136.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1136.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1136.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1136.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in

the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1136.32 Other reports.

In addition to the reports required pursuant to §§ 1136.30 and 1136.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of milk

§ 1136.40 Classes of utilization.

Except as provided in § 1136.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1136.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1136.15; and

(6) In shrinkage assigned pursuant to § 1136.41(a) to the receipts specified in § 1136.41(a)(2) and in shrinkage specified in § 1136.41 (b) and (c).

§ 1136.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1136.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) in the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph

(a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1136.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1136.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage

under this paragraph for the cooperative association shall be zero.

§ 1136.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1136.44(a)(7) or the corresponding step of § 1136.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1136.44(a)(11) or (12) or the corresponding steps of § 1136.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to another order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1136.40.

(c) *Transfers to producer-handlers and to exempt plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1136.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a handler described in § 1136.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1136.9(c) to another handler's pool plant shall be classified pursuant to § 1136.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1136.60.

§ 1136.43 General classification rules.

In determining the classification of producer milk pursuant to § 1136.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1136.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1136.9 (b) or (c) the pounds of skim

milk and butterfat, respectively, in each class in accordance with §§ 1136.40, 1136.41, and 1136.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1136.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1136.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1136.9(a) for each of his pool plants separately and of each handler described in § 1136.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1136.41(b).

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the

pounds of skim milk in products specified in § 1136.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1136.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1136.40(b)(1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) if this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1136.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and

products specified in § 1136.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the

reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1136.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining

in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1136.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1136.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1136.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1136.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the

month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1136.44 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1136.50 Class prices.

Subject to the provisions of § 1136.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.90.

(b) *Class II milk.* The Class II price shall be the Class III price for the month plus 15 cents.

(c) *Class III milk.* The Class III price shall be the basic formula price for the month.

§ 1136.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling

prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

§ 1136.52 Plant location adjustments for handlers.

(a) For milk which is received from producers at a pool plant, or is diverted therefrom, or is delivered by a handler described in § 1136.9(c) to a pool plant and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, the price computed pursuant to § 1136.50(a) shall be reduced as follows:

Distance (miles)	Rate per hundredweight (cents)
150 but not more than 160.....	22.0
For each additional 10 miles or fraction thereof in excess of 160.....	1.5

Such distance to be the shortest hard-surfaced highway distance as determined by the market administrator from the plant to the County Courthouse of Salt Lake County, Utah;

(b) In applying such credits to transfers of fluid milk products between pool plants, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) From the pounds of skim milk remaining in Class I at the transferee-plant after the computations are made pursuant to § 1136.44(a)(12) subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1136.9(c);

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plant pursuant to paragraph (b)(2) of this section by the applicable adjustment rate for each such plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1136.42(a), in sequence beginning with

the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(5) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1136.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1136.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1136.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1136.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1136.9(c) in each class as determined pursuant to § 1136.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1136.44(a)(14) and the corresponding step of § 1136.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1136.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1136.44(a)(9) and the corresponding step of § 1136.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (i) through (iv) and the corresponding step of § 1136.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (v) and (vi) and the corresponding step of § 1136.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(11) and the corresponding step of § 1136.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1136.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1136.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1136.60 for all handlers who filed the reports prescribed by § 1136.30 for the month and who made the payments pursuant to § 1136.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1136.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1136.60(f); and

(e) Subtract not less than 5 cents nor more than 6 cents per hundredweight. The result shall be known as the uniform price.

§ 1136.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1136.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1136.71, 1136.76, and 1136.77, subject to the provision of § 1136.78 and out of which he shall make all payments pursuant to §§ 1136.72 and 1136.77. *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1136.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1136.60; and

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1136.75, of such handler's receipts of producer milk and milk received from a handler described in § 1136.9(c). In the case of a

cooperative association which is a handler, less the amount due from other handlers pursuant to § 1136.73(d), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1136.60(f).

(b) On or before the 25th day after the end of the month each person who operated another order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1136.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1136.71(a)(2) exceeds the amount computed pursuant to § 1136.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1136.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b), (d), or (e) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at

not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 17th day of the following month, for producer milk received during the month, at not less than the uniform price pursuant to § 1136.61 adjusted by the butterfat differential specified in § 1136.74 and location adjustment specified in § 1136.75, subject to the following adjustments:

(i) Less deductions for marketing services pursuant to § 1136.86;

(ii) Less the payment made pursuant to paragraph (a)(1) of this section;

(iii) Plus or minus adjustments for errors made in previous payments to such producer and proper deductions authorized in writing by such producer; and

(iv) If by the date specified, such handler has not received full payment from the market administrator pursuant to § 1136.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which is authorized by its members to collect payment for their milk and which has requested such payment from any handler in writing and has so notified the market administrator, payment for milk received during the month by such handler(s) from producer-members of such association shall be accomplished as follows:

(1) On or before the third day prior to the last day of each month such handler shall pay to such cooperative association not less than 1.2 times the Class III price for the preceding month for the hundredweight of such milk received during the first 15 days of the month;

(2) On or before the 16th day of the following month such handler shall pay to such cooperative association the sum of the payments compared at the appropriate uniform price with respect to deliveries by producer-members of such association to handlers from whom payments have been requested, less the amounts of payments made to such association pursuant to paragraph (b)(1) of this section, and less the amount retained by handlers as authorized deductions.

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section

shall report to such cooperative association and to the market administrator on or before the 7th day of the following month, as follows:

(1) The total pounds of milk received during the month, and if requested, the pounds received from each member-producer;

(2) The amount of payment made pursuant to paragraph (b)(1) of this section and the quantity of milk to which such payment applied; and

(3) The amount or rate and nature of any proper deductions authorized to be made from payments.

(d) Each handler shall pay a cooperative association for milk received by him from such cooperative in its capacity as a handler described in § 1136.9(c) as follows:

(1) On or before the second day prior to the last day of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than the value of such milk at the applicable uniform price, less payment made pursuant to paragraph (d)(1) of this section.

(e) Each handler shall pay a cooperative association for milk received by him from a pool plant operated by such association as follows:

(1) On or before the second day prior to the end of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than an amount computed by multiplying the minimum prices for milk in each class subject to the applicable location adjustment provided in § 1136.52 and the butterfat differential provided by § 1136.74, by the hundredweight of milk in each class pursuant to § 1136.44, such amount to be reduced in the amount of the payment made pursuant to paragraph (e)(1) of this section.

§ 1136.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter

per pound at Chicago, as reported by the Department for the month.

§ 1136.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1136.52; and

(b) For purposes of computations pursuant to §§ 1136.71 and 1136.72 the uniform price shall be adjusted at the rates set forth in § 1136.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1136.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1136.30(b) and § 1136.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1136.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1136.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1136.60 for such handler shall include, in lieu of the value of other source milk specified in § 1136.60(f) less the value of such other source milk specified in § 1136.71(a)(2)(ii), a value of milk determined pursuant to § 1136.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated

distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1136.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1136.30(b) and 1136.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1136.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1136.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler; (b) a handler from the market administrator; or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making

payments set forth in the provisions under which such error occurred.

§ 1136.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1136.71, 1136.76, 1136.77 and 1136.85, shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided, That:*

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made 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.

Administrative Assessment and Marketing Service Deduction

§ 1136.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk received from a handler described in § 1136.9(c)) but excluding in the case of a cooperative association which is a handler pursuant to § 1136.9(c), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1136.44(a) (7) and (11) and the corresponding steps of § 1136.44(b), except such other source milk that is excluded from the computations pursuant to § 1136.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1136.76(a)(2).

§ 1136.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk pursuant to § 1136.73, (other than milk of his own production) shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary,

and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

Proposed by Mountain Empire Dairymen's Association, Inc., Western Colorado Producers Association and Western General Dairymen's Association

Proposal No. 4

Amend the Great Basin milk order, and if proposals No. 1 and 2 are not adopted amend the Eastern Colorado and Western Colorado milk orders, as follows:

§§ 1136.52, 1137.53, and 1134.53 [Removed]

A. Remove §§ 1136.52, 1137.53, and 1134.53.

§§ 1136.72, 1137.82, 1134.82 [Revised]

B. Revise §§ 1136.72, 1137.82 and 1134.82 to read as follows:

§ — Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

Proposed by Mountain Empire Dairymen's Association, Inc.

Proposal No. 5

§ 1137.7 [Amended]

Amend the Eastern Colorado milk order, as set forth in proposal No. 1, by adding in § 1137.7(a) the following:

(a) * * * *Provided, That* two or more distributing plants operated by a handler may be considered as one plant for the purpose of meeting the requirements of this paragraph if the handler submits a written request to the market administrator prior to the delivery period for which consideration is requested.

Proposed by Watts-Hardy Dairy, Inc. and Robinson Dairy Inc.

Proposal No. 6

Amend the Eastern Colorado milk order, Part 1137, to adopt the three-class system that was made effective by the Department in 1974 and which is embodied in Proposal No. 1, which includes a Class II differential of 10 cents.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 7

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the market administrator, 7 Parker Place, Suite 271, 2600 S. Parker Road, Aurora, Colorado 80044 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 of each of the orders for the aforesaid specified marketing areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C. on January 4, 1982.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-408 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1134, 1135, 1136, 1137 and 1139

[Docket Nos. AO-326-A21-RO1, et al.]

Milk in the Eastern Colorado and Certain Other Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Part	Marketing area	AO numbers
1137	Eastern Colorado	AO-326-A21-RO1.
1006	Upper Florida	AO-356-A18.
1012	Tampa Bay	AO-347-A21.
1013	Southeastern Florida	AO-286-A29.
1033	Ohio Valley	AO-166-A50.
1036	Eastern Ohio-Western Pennsylvania	AO-179-A45.
1040	Southern Michigan	AO-225-A34.
1124	Oregon-Washington	AO-368-A11.
1125	Puget Sound, Washington	AO-226-A29-RO1.
1133	Inland Empire	AO-275-A32-RO1.
1134	Western Colorado	AO-301-A17-RO1.
1135	Southwestern Idaho-Eastern Oregon	AO-380-A2.
1136	Great Basin	AO-309-A23-RO1.
1139	Lake Mead	AO-374-A7.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rules.

SUMMARY: This hearing is being held to consider industry proposals to amend 14 Federal milk marketing orders. The proposals would provide a new procedure for announcing the Class II price. Proponents contend that the requested order changes would promote the orderly marketing of milk in the respective marketing areas. The texts of the proposals to be considered at the hearing are set forth below.

DATE: February 3, 1982, at 9:00 a.m.

ADDRESS: Holiday Inn Airport, 4040 Quebec Street, Denver, Colorado 80216.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn Airport, 4040 Quebec Street, Denver, Colorado 80216, beginning at 9:00 a.m., local time, on Wednesday, February 3, 1982, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the aforesaid specified marketing areas.

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 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 agreements and to the orders.

This hearing with respect to the Puget Sound, Washington, and Inland Empire marketing areas is a reopening of the hearing held September 15-23, 1981, to consider the merger and expansion of such marketing areas. The hearing is reopened for the limited purpose of receiving evidence with respect to the economic and marketing conditions which relate to the Class II price announcement procedures under the separate orders, or a combination thereof, regulating the handling of milk in these marketing areas.

This hearing with respect to the Eastern Colorado, Western Colorado and Great Basin marketing areas is a reopening of the hearing that will be convened on February 2, 1982, to consider proposals to adopt the uniform classification provisions that were incorporated in a large number of other Federal milk orders in 1974 and revised in 1975. Also, proposals to change the Class II differential in the Eastern Colorado and Western Colorado milk orders will be considered at that hearing. This hearing is reopened for the limited purpose of receiving evidence with respect to the economic and marketing conditions which relate to the Class II price announcement procedures that would apply to the

handling of milk in these marketing areas.

Beginning January 1, 1981, actions under the Federal milk order program became subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as small businesses. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Milk Industry Foundation and International Association of Ice Cream Manufacturers:

Proposal No. 1

Add a new § —.21 to each of the aforesaid orders, to read as follow:

§ —.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National

Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Proposal No. 2

A. Amend § —.50 in Parts 1006, 1012, 1013, 1036, 1040, 1135, 1136 and 1139 and § —.51 in Parts 1033, 1134, and 1137, by revising paragraph (b) to read as follows:

§ —.50 [Amended]

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that no event shall the final Class II price be less than the Class III price (or basic formula price).

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices and add¹— cents; and

(2) Determine for the same 12-month period as specified in (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices.

B. Amend § —.50 in Parts 1125 and 1133 and § —.51 in Part 1124 by revising paragraph (b) to read as follows:

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c)(1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices and add 25 cents; and

(2) Determine for the same 12-month period as specified in (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices.

¹ Parts 1134—5 cents, Parts 1033, 1036 and 1135—10 cents, Parts 1006, 1012, 1013, 1040, 1136, 1137 and 1139—15 cents.

Proposal No. 3

Add a new § —.51a to each of the aforesaid orders to read as follows:

§ —.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § —.21 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or at less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

Proposal No. 4

A. Revise § —.52 in Parts 1013, 1036, 1040, 1125 and 1135 to read as follows:

§ —.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

B. Revise § —.53 in Parts 1133 and 1139, to read as follows:

§ —.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before:

- (a) The 5th day of each month:
 - (i) The Class I price for the following month;
 - (ii) The Class I butterfat differential for the current month;
 - (iii) The Class III price for the preceding month;
 - (iv) The Class II and Class III butterfat differential for the preceding month; and
 - (v) The final Class II price for the preceding month; and
- (b) The 15th day of each month, the tentative Class II price for the following month.

C. Amend §§ 1134.22(i) and 1137.22(i) to read as follows:

§ 1134.22 and § 1137.22 [Amended]

* * * * *

- (i) Publicly announce on or before:

(1) The 5th day of each month:

- (i) The Class I price for the following month;

- (ii) The Class I butterfat differential for the current month;

- (iii) The Class III price for the preceding month;

- (iv) The Class II and Class III butterfat differential for the preceding month; and

- (v) The final Class II price for the preceding month;

- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month; and

- (3) The 15th day of each month, the tentative Class II price for the following month.

D. Amend § 1136.22(k) to read as follows:

§ 1136.22 [Amended]

* * * * *

(k) Publicly announce on or before:

- (1) The 5th day of each month:

- (i) The Class I price for the following month;

- (ii) The Class I butterfat differential for the current month;

- (iii) The Class III price for the preceding month;

- (iv) The Class II and Class III butterfat differential for the preceding month; and

- (v) The final Class II price for the preceding month;

- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month; and

- (3) The 15th day of each month, the tentative Class II price for the following month.

E. Amend § 1033.27(k) to read as follows:

§ 1033.27 [Amended]

* * * * *

(k) Publicly announce on or before:

- (1) The 5th day of each month:

- (i) The Class I price for the following month;

- (ii) The final Class II price for the preceding month;

- (iii) The Class III price for the preceding month; and

- (iv) The butterfat differential for the preceding month; —

- (2) The 12th day of each month, the uniform price for the preceding month; and

- (3) The 15th day of each month, the tentative Class II price for the following month.

F. Revise § —.53 in Parts 1006 and 1012 to read as follows:

§ —.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth

day of each month the Class I price for the following and the final Class II price for the preceding month; and on or before the 15th day of each month tentative Class II price for the following month.

G. Amend §§ 1124.22(i) to read as follows:

§ 1124.22 [Amended]

* * * * *

(i) Publicly announce on or before:

- (1) the 5th day of each month:

- (i) The Class I price for the following month;

- (ii) The Class I butterfat differential for the current month;

- (iii) The Class III price for the preceding month;

- (iv) The Class II and Class III butterfat differential for the preceding month; and

- (v) The final Class II price for the preceding month;

- (2) The 14th day of each month, the uniform prices and the producer butterfat differential, both for the preceding month; and

- (3) The 15th day of each month, the tentative Class II price for the following month.

Proposed by Mountain Empire Dairymen's Association, Inc., Western Colorado Producers Association, Western General Dairymen's Association and Dairymen's Creamery Association:

Proposed by Mountain Empire Dairymen's Association, Inc., Western Colorado Producers Association, Western General Dairymen's Association and Dairymen's Creamery Association:

Proposal No. 5

Amend the Western Colorado Order No. 134, Southwestern Idaho-Eastern Oregon Order No. 135, Great Basin Order No. 136, and Eastern Colorado Order No. 137 to incorporate the Class II price announcement procedure that became effective on September 1, 1981, in 29 other milk order marketing areas (46 FR 43371) and as embraced in proposals 1 through 4, except that the Class II differentials for the Eastern Colorado and Western Colorado milk orders shall be 10 cents.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 6

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the respective orders may be procured from the market administrator of each of the orders for the aforesaid specified marketing areas or from the Hearing Clerk, Room 1077, South Building, USDA, 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 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 of each of the orders for the aforesaid specified marketing areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on January 4, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-407 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Office of Leasing Policy Development
10 CFR Part 378

[Docket No. LPD 81-2]

Diligence Requirements for Federal Coal Leases

Cross Reference: For a document issued by

the Geological Survey, Department of the Interior, regarding comments and meetings on the Department of Energy's proposed rule regarding diligence requirements for Federal coal leases (46 FR 62226, Dec. 22, 1981), see FR Doc. 82-358 published in the Proposed Rules section of this issue. Refer to the table of contents under "Geological Survey" to determine the appropriate page number.

BILLING CODE 4310-31-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-81-17]

Petitions For Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain

petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before: March 8, 1982.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION:

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on December 29, 1981.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the rule requested
22269	Flight Engineers International Association (FEIA)	<p>Description of Petition:</p> <p>To amend appropriate FAR Parts to the extent necessary in order to regulate the certification of transport category airplane cockpits and their use in air transportation in the United States. These amendments would include the establishment of an integrated and coordinated set of regulatory standards, documentation requirements and evaluation criteria for the certification, configuration control, and modification of flight cockpits used on transport category airplanes. Additionally, the amendments would provide for the certification of appropriate flight operational procedures and training specifications consistent with: criteria used in the aircraft/cockpit system, and procedures dictated by flight operational activity, i.e., low visibility approach and landing operations currently permitted by the Category II and Category III advisory circular criteria, etc.</p> <p>They would also cover the certification of cockpit instrumentation, equipment and software configurations, minimum flight crew, master minimum equipment list—for a particular aircraft type, minimum equipment list—for the particular air carrier, cockpit/crew operational procedures, and crew function training.</p> <p>Regulations Affected: 14 CFR Parts 21, 25, and 121.</p>

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description of the rule requested
22267	Beech Aircraft Corp.	<p>Petitioner's Reasons for Rule: The petitioner has referred to the transcripts of public hearings associated with the President's Task Force on Aircraft Crew Complement (Task Force) and the public discussions in the six recently-conducted FAA Aviation Human Factors Workshops. Based on its analysis of these public hearings/discussions and the five recommendations relating to crew complement certification identified by the Task Force, the petitioner believes that justification exists for a regulatory requirement to certify Part 25 airplane cockpits for use in air transportation.</p> <p>Description of Petition: To require landing distances for aircraft certificated under SFAR 41 to be the same as for aircraft certificated under Section 23.75.</p> <p>Regulations Affected: SFAR 41.5(c)(a).</p> <p>Petitioner's Reasons for Rule: Petitioner states "SFAR 41, through reference to a non-current version of FAR 23 invokes an overly conservative and outmoded technique for the determination of landing distance. Operations of aircraft so certificated, as commercial carriers under FAR 135, is further penalized by provisions of FAR 135.399(b), which required landing distances be factored by 1.67 for destination fields and 1.43 for alternate fields. The combination of outmoded techniques for landing determination coupled with the additional safety factors of FAR 135.399(b) results in unreasonably long, overly conservative runway lengths for SFAR 41 aircraft. This effectively precludes SFAR 41 aircraft service to many small-city airports and neutralizes the intent of SFAR 41."</p>
None this period		

[FR Doc. 82-146 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

[Docket No. 22530; Notice No. 81-17]

One Engine Inoperative Ferry Flight Authorization**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to change the regulations to allow certificate holders under Part 125 to conduct ferry flights with one engine inoperative without a special flight authorization. This change is necessary to preclude discontinuing this authorization when Part 125 becomes applicable to commercial operators January 1, 1983, since this part does not contain such an authorization. This proposal arose in response to requests from commercial operators who have become certificated under Part 125 and should provide relief in accordance with Executive Order 12291.

DATE: Comments must be received on or before March 8, 1982.

ADDRESS: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204) Docket No. 22530, 800 Independence Ave. SE., Washington, D.C. 20591. All comments must be marked: Docket No. 22530. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. C. W. Schaffer, General Aviation Commercial Branch (AWS-340), Aircraft Maintenance Division, Office of

Airworthiness, Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591; Telephone: (202) 426-8205.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications must identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 22530. The postcard will be date and time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal

Aviation Administration, Office of Public Affairs, Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular 11-2 which describes the application procedures.

Background

Part 125 became effective February 3, 1981. Section 125.1(d) provides that an operator, who holds a certificate on the effective date of this part as a commercial operator under Part 121 of this chapter, may continue under those rules until the expiration of that certificate, but no later than January 1, 1983. Thus, a commercial operator operating aircraft to which Part 125 applies must, by that date, hold an air carrier operating certificate, hold an operating certificate under Part 125, or cease to operate for compensation or hire. Some operators have elected to become certificated under Part 121, but the majority have or will elect to become operating certificate holders under Part 125.

Commercial operators under Part 121 are authorized, by § 91.45, to conduct ferry flights of four-engine airplanes or turbine engine powered airplanes equipped with three engines, with one engine inoperative. Section 91.45 does not make such a provision for operating certificate holders under Part 125.

Certificate holders operating under Part 125 are required to make

application for, and be issued, a special flight authorization (ferry permit) when they desire to conduct one-engine inoperative ferry flights. When the need for a ferry permit occurs in a remote area or during other than normal business hours, the application and issuance process can result in costly delays in returning the aircraft to productive service. Further, an unnecessary administrative burden is placed on the operator and the Federal Aviation Administration.

Section 125.1(d) imposes the same limitations on certificate holders under Part 123 since it brings them under Part 125 on the same date, January 1, 1983. These persons and other persons who become certificated under Part 125 will be subject to the same application and issuance procedure and limitations imposed on the commercial operators.

The operating history of commercial operators under Part 121 supports continuance of their authority to use § 91.45 under Part 125. Further, Parts 121, 123, and 125 have similar operational and administrative procedures which should ensure that certificate holders under Part 125 are capable of conducting ferry flights with one engine inoperative as provided in § 91.45 without derogating safety. On this basis the Federal Aviation Administration is not aware of any reason which should preclude operation under § 91.45 by certificate holders operating under Part 125. Provisions have been made to ensure current commercial operators under Part 121 continuance of their authority to use § 91.45 until January 1, 1983. However, persons issued deviation authority under § 125.3 to operate under Subpart D of Part 91 do not have similar operational and administrative controls and, therefore, would not be authorized to use § 91.45 as proposed.

Regulatory Evaluation

This proposal is relieving in nature. No formal cost-benefit analysis was completed with respect to the proposal. However through a preliminary assessment of costs and economic impact the FAA has determined that there are no costs associated with this proposal, and that there will be a positive economic impact by eliminating the delays caused by operators having to secure a special flight authorization (ferry permit) when they desire to conduct one-engine inoperative flights.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

By revising § 91.45(a) introductory text, (a)(5) and (a)(6) to read as follows:

§ 91.45 Authorization for ferry flights with one engine inoperative.

(a) *General.* The holder of an air carrier operating certificate, an operating certificate issued under Part 125, or until January 1, 1983, an operating certificate issued under Part 121, may conduct ferry flights of airplanes equipped with four engines or of turbine engine powered airplanes equipped with three engines, with one engine inoperative, to a base for the purpose of repairing that engine subject to the following:

(5) Persons other than required flight crewmembers shall not be carried during the flight.

(6) No person may use a flight crewmember for flight under this section unless that crewmember is thoroughly familiar with the operating procedures for one-engine inoperative ferry flight contained in the certificate holder's manual, and the limitations and performance information in the Airplane Flight Manual.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, and 1421 through 1430); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—The FAA has determined that this proposal relaxes requirements to eliminate the delays caused by operators having to secure a special flight authorization (ferry permit) when they desire to conduct one-engine inoperative flights and will, therefore, reduce costs to affected Part 125 operators. Since the expected impact of this regulatory action is so minimal and involves no costs and will have only positive economic impact by eliminating the need for special flight authorizations, it does not warrant preparation of a regulatory evaluation and it is not a major regulation under Executive Order 12291. I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has determined that this proposed revision is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Issued in Washington, D.C., on December 17, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 82-365 Filed 1-5-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 211

Diligence Requirements for Federal Coal Leases

AGENCY: Geological Survey, Interior (DOI).

ACTION: Revised Place to submit Comments; Additional Public Meetings.

SUMMARY: On December 22, 1981, the Department of Energy (DOE) proposed rules in the *Federal Register* at page 62226 regarding the standards for diligent development and continued operation for Federal coal leases. The authority for that proposal was section 302(b) of the DOE Organizational Act (91 Stat. 579), since repealed by the 1982 Interior Department Appropriations Act (Pub. L. 97-100, 12/23/81).

When enacted in 1977, section 302(b) of the DOE Organization Act transferred authority for diligence rulemaking from the Department of the Interior (DOI) to DOE. Repeal of section 302(b) thus reverts with DOI the rulemaking authority for diligence standards.

This notice is to advise interested parties that, since DOI now has diligence rulemaking authority, written comments on DOE's December 22, 1981, proposal should be sent to the Geological Survey at the address below. Comments should not be sent to DOE. After receipt and analysis of comments, final rules will be promulgated in 30 CFR 211.

DATES: All written comments must be received by February 22, 1982. Hearings will be held on the dates listed in Supplementary Information below.

ADDRESSES: Send written comments to: U.S. Geological Survey, 653 National Center, Reston, VA 22092. Hearings will be held at the locations listed in Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: Robert O. Schrott, Acting Chief, Branch of Coal Management, Conservation Division, U.S. Geological Survey, Reston, VA 22092, 703-860-7136, FTS: 928-7136.

SUPPLEMENTARY INFORMATION: As previously announced, DOI will hold a series of public meetings to provide the public a forum where they may discuss proposed changes to the Federal coal leasing program (46 CFR 61390, 61424, December 16, 1981) with the staff of the Geological Survey and the Bureau of Land Management. This notice advises interested parties that the diligence rulemaking will also be discussed at

those meetings. DOE's December 22, 1981, proposal announced a public hearing on the diligence proposal in Denver, Colorado. That hearing is hereby canceled.

The public meetings will be held at the following locations and times:

Salt Lake City, Utah, Salt Palace, Room 220, Monday, January 11, 1982, 2 p.m. and 7 p.m.
Casper, Wyoming, Ramada Inn, Wednesday, January 13, 1982, 2 p.m. and 7 p.m.
Farmington, New Mexico, Farmington Civic Center, 200 West Arrington, Room C, Friday, January 15, 1982, 2 p.m. and 7 p.m.

It is hoped that discussions at these meetings will aid the public in the formulation of their comments on the proposed rulemakings.

Daniel N. Miller, Jr.,

Assistant Secretary—Energy and Minerals.

[FR Doc. 82-358 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

[SPA 27]

Public Hearing and Public Comment Period on the Resubmitted Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Notice of receipt of permanent program resubmission: Schedule for public hearing and public comment period.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of those portions of the proposed Kentucky regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which have been resubmitted by the State. The resubmission includes those portions of the proposed regulatory program which were disapproved by the Secretary of the Interior in his initial decision on October 22, 1980 (45 FR 69940-69970). However, in this resubmission Kentucky has also proposed amendments and/or submitted additional information relating to previously approved portions of its program. Therefore, the Secretary is also soliciting public comments concerning the effect of these program changes on those portions of the Kentucky program which were approved on October 22, 1980.

This notice sets forth the times and locations that the Kentucky program is available for public inspection; the date

when and location where OSM will hold a public hearing on the resubmission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the portions of the Kentucky program not previously approved by the Secretary of the Interior will be held at 6:30 p.m. on January 26, 1982, at the address listed under "ADDRESSES."

Comments from members of the public must be received on or before the close of business on February 8, 1982, in order to be considered in the Secretary's decision on those elements of the proposed Kentucky program which were not approved in the initial decision on the proposed program.

ADDRESSES: The public hearing will be held at the Harley Hotel, 2143 N. Broadway, Lexington, Kentucky. Written comments should be sent to: Office of Surface Mining, ATTN: Administrative Record Room, Suite 500, 530 So. Gay Street, S.W., Knoxville, Tennessee 37902.

Copies of the full text of the proposed program, a listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region II Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Knoxville Regional Office, Suite 500, 530 So. Gay Street, S.W., Knoxville, Tennessee 37902, Telephone (615) 971-5100

Bureau of Surface Mining Reclamation and Enforcement, Capitol Plaza Tower, Sixth Floor, Frankfort, Kentucky 40601

See Supplementary Information for the locations where the full text of the proposed program are available for inspection.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Acting Regional Director, Office of Surface Mining, 530 S. Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902. Phone: (615) 971-5100.

SUPPLEMENTARY INFORMATION:

Relevant Addresses

Copies of the full text of the proposed program are available for inspection during regular business hours at the following locations:

Administrative Record Room, Office of Surface Mining, Region II, 530 So. Gay

Street, S.W., Suite 500, Knoxville, Tennessee 37902

Bureau of Surface Mining Reclamation and Enforcement, Capitol Plaza Tower, Sixth Floor, Frankfort, Kentucky 40601

Bureau of Surface Mining Reclamation and Enforcement, Old T8 Facility, Laffoon Street, Madisonville, Kentucky 42431

Bureau of Surface Mining Reclamation and Enforcement, 1632 East Cumberland Avenue, P.O. Box 951, Middlesboro, Kentucky 40965

Bureau of Surface Mining Reclamation and Enforcement, Howell Building, Route 2, Box 500, Jackson, Kentucky 41339

Bureau of Surface Mining Reclamation and Enforcement, 431 South Lake Drive, Prestonburg, Kentucky 41653

Bureau of Surface Mining Reclamation and Enforcement, 165 South Mayo Trail, P.O. Box 2289, Pikeville, Kentucky 41051

Bureau of Surface Mining Reclamation and Enforcement, KY 80, Reclamation Building, London, Kentucky 40601

Bureau of Surface Mining Reclamation and Enforcement, 620 West Main Street, Grayson, Kentucky 41143

Office of Surface Mining, Administrative Record Office, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Acting Regional Director, Office of Surface Mining, 530 So. Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902. Phone: (615) 971-5100.

SUPPLEMENTARY INFORMATION: On February 29, 1980, the Commonwealth of Kentucky submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326-15328), the Regional Director published notification of receipt of the program submission in the March 12, 1980 *Federal Register* (45 FR 15948-15950), and in newspapers of general circulation within the State. In accordance with that announcement, public comments were solicited and a public meeting was held on April 16 and 17, 1980, on the issue of the program's completeness.

On April 29, 1980, the Regional Director published notice in the *Federal Register* announcing that he had determined the program to be complete (45 FR 28368-28369) as required by 30 CFR 731.14(c).

A public hearing on the adequacy of the Kentucky submission was held on July 22, 1980, in Madisonville, Kentucky, and on July 23, 1980, in Hazard, Kentucky, by the Regional Director,

after due notice on June 23, 1980, in the *Federal Register* (45 FR 41977-41979) and in newspapers of general circulation within the State. The public comment period ended July 28, 1980.

Throughout the period beginning with the submission of the program, OSM had frequent contact with the staff of the Kentucky Department for Natural Resources and Environmental Protection. Minutes or notes of the discussions were placed in the Administrative Record and made available for public review and comment. The full chronology of the events leading to the Secretary's initial decision is contained in the *Federal Register* notice of the partial approval by the Secretary (45 FR 69940-69970) published on October 22, 1980. That notice also contained the Secretary's findings, detailed explanations of those findings and the Secretary's decision, which approved and disapproved specific parts of the Kentucky program.

In accordance with the procedures set forth in 30 CFR 732.13(f), the Commonwealth of Kentucky had 60 days from the date of publication of the Secretary's partial approval decision in which to submit a revised program for consideration. On October 31, 1980, the Kentucky Circuit Court enjoined the Kentucky Department for Natural Resources and Environmental Protection from submitting or resubmitting to OSM the Kentucky Permanent State Program. On October 31, 1981, acting upon a motion by Kentucky the Court agreed to permit the submission to OSM of the revised program. The State submitted its revised program for consideration on December 30, 1981.

In keeping with the public participation mandate of SMCRA, 30 CFR 732.13(f) requires a minimum of 15 days for public review and comment. The comment period for the Kentucky program will end at 4:00 p.m. on February 8, 1982. During this period the Secretary is soliciting comments from the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies, as well as the general public.

Subsequent to the public hearing and review of all comments, the Regional Director will transmit to the Director a recommended decision along with a record composed of the hearing transcript, written presentations, exhibits, and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that those portions of the

program that were not approved in the Secretary's initial decision now be approved or disapproved or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12(d) and (e) (44 FR 15326-15327). For further details, refer to 30 CFR 732.12 and 732.13 of the permanent regulatory program (44 FR 15326-15327) and corresponding sections of the preamble (44 FR 14959-14961). The Kentucky State Program will be evaluated by the Secretary under the criteria set forth in 30 CFR 732.15, including the recent amendment to the definition of "consistent with" which sets a new standard for comparison of State programs with the Federal regulations, 30 CFR 730.5(a) and 732.15(a) (46 FR 53376-53384, October 28, 1981).

The Secretary's decision on the program as resubmitted will constitute the final decision by the Department. If the revised program is approved, the Commonwealth of Kentucky will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-Federal and non-Indian lands in Kentucky. If the revised program is approved, the Secretary and the Governor may also enter into a cooperative agreement governing regulation of those activities on Federal lands in Kentucky. Such an agreement would be the subject of a separate rulemaking and *Federal Register* notice. If the revised program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of the above activities in Kentucky. To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established Subchapter T of 30 CFR Chapter VII.

Subchapter T will consist of parts 900 through 950. Provisions relating to Kentucky will be found in 30 CFR Part 917 after Kentucky's resubmission has been approved or disapproved.

At the public hearing on January 26, 1982, parties wishing to comment on the proposed program will be asked to register for placement on the speaker's agenda. The hearing will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of scheduled speakers. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all

scheduled speakers have been heard. Written comments, data, or other relevant information may be submitted to supplement, or in lieu of, an oral presentation at the hearing.

In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

1. The hearing shall be informal and follow legislative procedures.
2. Based on the number in attendance, each participant may be limited to 10 minutes.
3. Participants will be called in the order in which they register.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the *Federal Register* (44 FR 54444-54445) governing contacts between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Interested members of the public are encouraged to read the Secretary's partial approval of the initial Kentucky program submission (45 FR 69940-69970) published October 22, 1980. That document contains detailed findings and explanations relating to the parts of the initial submission which were specifically approved and disapproved. Unless a change has been made to a part of the program previously approved, the Secretary will only consider comments relating to those portions previously disapproved or to any portions of the program first appearing in the resubmission.

Set forth below is a summary of the contents of the Kentucky program including resubmission materials:

Section and Description

- Executive Summary
- 731.14(a) State Laws and Regulations
- (b) Other State Laws and Regulations
- (c) Legal Opinion on Authority to Regulate
- (d) Designation of an Agency as Regulatory Authority
- (e) Description of Regulatory Authority
- (f) Memoranda of Agreement
- (g) Proposed Systems
 - (g)(1) Permit Process
 - (2) Fees for Permits
 - (3) Bonding System
 - (4) Inspection Process
 - (5) Enforcement of Civil and Criminal Penalties
 - (6) Enforcement of Performance Standards
 - (7) Assessing and Collecting Civil Penalties
 - (8) Issuing Public Notices

- (9) Coordination of Permit Issuance
- (10) Consulting with Other State and Federal Agencies
- (11) Lands Unsuitable for Mining Program
- (12) Monitoring Conflict of Interest
- (13) Training and Certification of Blasters
- (14) Public Participation
- (15) Administrative and Judicial Review
- (16) Small Operator's Assistance Program
- (h) Statistical Information
 - (1) Annual Coal Production
 - (2) Number of Mines
 - (3) Acreage
 - (4) Geographic Distribution of Mining
 - (5) Annual Number of Permit Applications
 - (6) Frequency of Inspections
 - (7) Status of Current Permits
 - (8) Coal Production Projections
- (i) Existing and Proposed Staffing
- (j) Adequacy of Staffing
- (k) Other Agency Personnel
- (l) Proposed Budget
- (m) Physical Resources
- (n) Special Performance Standards
- (o) Other Programs Administered by the Regulatory Authority

- APPENDIX A Kentucky's Proposed Regulations
- APPENDIX B Other State Laws and Regulations
- APPENDIX C List of Inspections Made on Active Permits
- APPENDIX D Equipment Inventory and Vehicle Replacement Schedule

Additional Determinations

The Office of Management and Budget has granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for State program approvals, amendments, and removal of conditions. Therefore, this rule is exempt from the Determination of Effects requirements of the Executive Order.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Kentucky program. Under Section 702(d) of SMCRA (30 U.S.C. 1291(d)), approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: December 31, 1981.

Wesley R. Booker,
Acting Director, Office of Surface Mining.

[FR Doc. 82-431 Filed 1-6-82; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 543

Instruction of Civilians in Marksmanship

AGENCY: Army Department, DOD.

ACTION: Proposed rule (revision).

SUMMARY: Army Regulation 920-20 implements the provisions of Title 10, U.S.C., sections 4308 and 4311 for the instruction of civilians in marksmanship. Revision is necessitated by recent decisions of the National Board for the Promotion of Rifle Practice extending the age groups eligible for participation and procedures governing annual reporting procedures, which will authorize greater participation and simplify processing of enrollment applications and reporting procedures.

FOR FURTHER INFORMATION CONTACT:

Colonel Jack R. Rollinger, Director of Civilian Marksmanship, Room 1205, Pulaski Bldg., 20 Massachusetts Avenue, NW., Washington, DC 20314; (202) 272-0810.

DATES: Comments must be received on or before March 8, 1982. Proposed effective date March 15, 1982.

John O. Roach, II,
Liaison Officer with the Federal Register.

PART 543—PROMOTION OF RIFLE PRACTICE

Accordingly, 32 CFR Part 543 is proposed to be revised to read as set forth below:

Subpart A—General

- Sec.
- 543.1 Purpose.
- 543.2 Applicability.
- 543.3 References.
- 543.4 Authority.
- 543.5 Responsibilities.
- 543.6 Eligibility limitations.

Subpart B—Organization and Enrollment of Shooting Clubs

- 543.7 Junior clubs.
- 543.8 Junior and senior clubs.
- 543.9 Enrollment.

Subpart C—Provision of Arms, Ammunition, Targets, and Related Equipment

- 543.10 Issue of Government-owned material.
- 543.11 Sale of Government-owned material.
- 543.12 Clubs located on military reservations.

Subpart D—Marksmanship Training Requirements

- 543.13 Training.
- 543.14 Qualification courses.

Subpart E—Administrative Procedures

- Sec.
- 543.15 Annual statistical report of civilian rifle clubs
- 543.16 Bonds.
- 543.17 Care and safekeeping of arms, ammunition, and equipment.
- 543.18 Defective ammunition.
- 543.19 Other defective equipment.
- 543.20 Transportation of equipment.

Subpart F—Civilian Use of Government Rifle Ranges

- 543.21 Application for use of ranges.
- 543.22 Range control.
- 543.23 Arms and ammunition.
- 543.24 Record practice for qualification.
- 543.25 Denial of privileges.

Subpart G—Civilian Marksmanship Support Other Than Through DCM-Affiliated Clubs

- 543.26 Authorized organizations.
- 543.27 Procedures.

Authority: Sec. 4308, 70A Stat. 236; 10 U.S.C. 4308, unless otherwise noted.

Subpart A—General

§ 543.1 Purpose.

This AR governs the Secretary of the Army's (SA) program for promoting marksmanship training with rifled arms among citizens of the United States.

§ 543.2 Applicability.

This AR applies to the Active Army, the Army National Guard, and the Army Reserve. It applies to all operations related to United States civilian rifle clubs.

§ 543.3 References.

AR 725.1 (Special Authorization and Procedures for Issues, Sales, and Loans) is a required publication. (Cited in §§ 543.11 (a) and (b)).

§ 543.4 Authority.

Table 1 explains authorization for the conduct of a program to promote practice in the use of rifled arms by able-bodied citizens.

§ 543.5 Responsibilities.

The Director of Civilian Marksmanship (DCM) has management control of the program and provides support and assistance to civilian shooting clubs participating in the program. (See Subpart B and G).

§ 543.6 Eligibility limitations.

Except for ROTC students in high schools and junior high schools which do not receive marksmanship training materials from the Armed Forces, the following are not eligible to take part in the civilian marksmanship program: Members of—

(a) The Armed Forces of the United States;

(b) The U.S. Army Reserve;
(c) The Army National Guard; and

(d) The Reserve Officers Training
Corps.

TABLE 1.—AUTHORITY

Line	A	B	C
	Action	Limitations	Authority
1	The SA is authorized to conduct a program for promoting practice in the use of rifled arms by citizens of the United States. This includes classes of instruction and the issue of arms, ammunition, and other necessary supplies.	This action must be within the limits of available funds and pursuant to rules approved by the SA upon the recommendation of the NBPRP (National Board for the Promotion of Rifle Practice).	Section 4308 of Title 10 United States Code (10 U.S.C. 4308)
2	All rifle ranges constructed in whole or in part with Federal funds may be used by citizens of the United States.	Users must abide by regulations prescribed by authorities controlling these ranges. The SA must have approved the use.	10 U.S.C. 4309(b).
3	The position of Director of Civilian Marksmanship (DCM) is authorized. (The position of DCM is established in AR 920-15).		10 U.S.C. 4307

Subpart B—Organization and Enrollment of Shooting Clubs

§ 543.7 Junior clubs.

To be eligible for the marksmanship program, clubs must have—

(a) At least ten members, ages 10–20 inclusive. (Undergraduate members of a club organized from among the students of a college or university under 27 years of age may be counted.) In this regulation, they are referred to as “eligible junior members.”

(b) At least three responsible adult leaders, formally named in the club organization, who supervise the eligible junior members in all aspects of this program. They must be United States citizens. At least one of these leaders must be a marksmanship instructor with qualifications acceptable to the DCM.

(c) A range, or access to a range, having adequate facilities for each eligible junior member to fire for practice at least four times a year and for record at least once a year.

§ 543.8 Junior and senior clubs.

(a) A club may enroll as a Senior Club if it—

(1) Has a membership of ten or more US citizens who are more than 20 years old.

(2) Meets all eligibility requirements of § 543.7.

(b) The eligible junior members of a Senior Club may be identified as its “Junior Division.”

§ 543.9 Enrollment.

(a) Forms. Clubs will apply for enrollment to the DCM on the forms listed in paragraphs (a) (1) through (8) of this section. Request these forms from the Director of Civilian Marksmanship, Department of the Army, WASH DC 20314.

(1) DA Form 1271 (Application for Enrollment of a Civilian Rifle Club).

(2) DA Form 1272 (Bond Application for Civilian Rifle Club).

(3) DA Form 1273 (Requisition for Articles Authorized for Issue to Civilian Rifle Clubs). Attach a description of the club's methods and facilities for keeping arms and ammunition safe.

(4) DA Form 1274 (Description of Available Range Facilities for Civilian Rifle Clubs).

(5) ODCM Form 137 (Roster of Club Members).

(6) DD Form 1584 (DOD National Agency Check Request). Prepare one for each adult leader and club officer.

(7) FD Form 258 (Fingerprint Card). Prepare one for each adult leader and club officer.

(8) ODCM Form 138 (Assurance of Compliance with Title VI Civil Rights Act of 1964).

(b) Authority. Clubs will submit the following with the application: The name, title, and address of at least one local or State law enforcement officer to whom the club is known.

(c) Verification. The DCM will have DD Forms 1584 and FD Forms 258 checked by U.S. Government agencies or local law enforcement agencies to insure that support of the club does not constitute a violation of the law. Clubs cannot be affiliated with the program until this check is completed. After a club is affiliated, each new person elected to office will be required to submit DD Form 1584 and FD Form 258.

(d) Denial and appeal of denial.

(1) Affiliation will be denied if an adult member or a club officer—

(i) Has a history of mental illness.

(ii) Is considered unqualified for any reason to supervise a youth program in marksmanship training.

(iii) Has been convicted of or has charges pending against him or her for—

(A) A crime for which the maximum penalty by law is imprisonment exceeding one year.

(B) A crime involving an assault against a person.

(C) A crime involving the use of firearms.

(D) A violation of Federal, State, or local firearms regulations.

(2) When affiliation is denied, the DCM will provide the reason.

(3) The club may submit added facts to justify approval.

(e) Revocation. Membership may be revoked and Government property recovered by the DCM if for two consecutive years a club fails to meet organizational requirements or fails to conduct and report the marksmanship training program as described in Subpart E § 543.15(h).

Subpart C—Provision of Arms, Ammunition, Targets, and Related Equipment

§ 543.10 Issue of Government-owned material.

(a) General. Clubs that are affiliated and continue to comply with the provisions of this regulation may be issued marksmanship training materials. All issues are subject to limitations of available resources and may be reduced or suspended at any time. All Government property is issued to affiliated clubs, not to individuals, and is to be used solely for supporting the club's organized marksmanship training program. Club leaders and officials will insure that the property is used only for this purpose. Sale, barter, exchange, or private use of Government property issued under this regulation is prohibited.

(b) Issue and retention of rifles. Each newly affiliated Junior Club will be initially issued four training or match grade caliber .22 rifles, with sights but without other auxiliary equipment for ten members, plus one rifle for each additional five juniors in excess of ten. However, the total number of rifles issued will not exceed ten for any club unless fully justified by the club and approved by the DCM. After submission of the club's first annual report (§ 543.15(a)(2)), additional rifles may be requested to support club growth and/or allowances for eligible senior members (paragraph (d) of this section). Only eligible members who during the preceding year fired and reported a qualification course in accordance with § 543.14 and § 543.15. When there is a reduction in the number of members eligible to be counted, as shown in annual reports, the DCM may initiate

action to withdraw rifles in excess of the quantities shown.

(c) Issue of ammunition targets. A newly enrolled club will be issued 300 rounds of caliber .22 ammunition for each eligible junior member. After submission of the club's first annual report, it will be issued 300 rounds of caliber .22 ammunition for each eligible junior member who during the preceding year fired and reported a qualification course in accordance with § 543.14 and § 543.15. Similarly, issues for succeeding years will be made, not to exceed 300 rounds for each eligible junior member, as long as the club remains affiliated and in good standing. Appropriate targets, as available, will also be issued.

(d) Issue of rifles to Senior Clubs. Participation of Senior members is considered the best source of competent instruction and responsible leadership for junior members. Affiliated Senior Clubs are authorized four training or match grade (if available) caliber .22 rifles. Additionally, four caliber .30 service rifles for ten members, plus one additional caliber .30 rifle for each additional five members not to exceed eight rifles, are authorized. For Senior Clubs having a junior division, these allowances are in addition to those authorized in (b) above. The issue of ammunition and targets is authorized for senior members as available.

(e) Requisitions for issue of material. Clubs will forward requests for issue of material to the DCM. A bond covering the cost of nonexpendable Government property is required. (See § 543.16)

§ 543.11 Sale of Government-owned material.

(a) The Army may sell affiliated clubs the types of targets that are not available from commercial sources.

(b) DCM affiliated Junior Clubs and junior divisions of affiliated Senior Clubs may buy limited quantities of caliber .22 ammunition for use by junior members only. Other ammunition and components may also be purchased as available. The maximum quantities will be determined each fiscal year by the DCM.

(c) Clubs will submit purchase requests to the DCM who will forward approved requests to the proper agencies for processing. The DCM will return disapproved requests with an explanation.

§ 543.12 Clubs located on military reservations.

Clubs located on military reservations are eligible to receive material assistance if they meet the eligibility requirements (§ 543.7) and are located in the United States, Defense Complex

Panama, Virgin Islands, or the Commonwealth of Puerto Rico.

Subpart D—Marksmanship Training Requirements

§ 543.13 Training.

Affiliated clubs must conduct an active rifle marksmanship training program (firing and nonfiring) for a reasonably permanent membership for at least nine months each year. This requirement cannot be fulfilled by training conducted only at summer camps unless the training conforms to a program approved for this purpose by the DCM.

§ 543.14 Qualification courses.

(a) Not less than once a year, each eligible junior member (§ 543.7(c) and each senior member will fire, for record, a rifle course authorized in the current DCM qualification pamphlet. (Pamphlets are available from the DCM).

(b) Adult leaders must specify the qualification course to be fired. The specified course may be fired as many times during the season as the leaders may direct, but only the highest complete score of each individual will be reported (§ 543.15(g)(2)).

(c) A rifle course corresponding to a DCM approved course of fire that is fired in a match or tournament may be counted as the annual record firing of the individual concerned.

(d) Annual allowances of ammunition will not be increased to support the firing of record courses more than once. There are no restrictions on the type of ammunition used in firing a qualification course for record.

Subpart E—Administrative Procedures

§ 43.15 Annual statistical report of civilian rifle clubs.

(a) Purpose and scope. This report provides the basis for issuing—

(1) Appropriate certificates of qualification or badges to eligible club members.

(2) Additional equipment and ammunition.

(b) Preparing activities: Each affiliated club.

(c) Form supply. The DCM will provide DA Form 1277 (Annual Statistical Report of Civilian Rifle Club) and the forms listed in paragraph (g) of this section.

(d) Frequency: Annually.

(e) Period covered: 1 July of one year to 30 June of the following year.

(f) Due date, routing and number of copies: Send one copy of DA Form 1277 to DCM, DA, WASH DC 20314, by the established due date.

(g) Related requirements: Also send one completed copy/set of each of the following forms to the DCM with DA Form 1277:

(1) DA Form 1275 (Annual Inventory of U.S. Property Held by Civilian Rifle Clubs). Attach to this form a description of the club's procedures and facilities for the safekeeping of arms and ammunition.

(2) OSA Form 119 (Roster of Club Members). Identify each member required to fire annually (§ 543.14) and include: Full name; address; birthdate; DCM course; score; and target fire for record.

(h) Failure to report. If a club fails to submit requested reports by the due dates, further support may be denied or support may be withdrawn.

§ 543.16 Bonds.

As a condition for the issue of nonexpendable Government property, each club is required to file with the DCM a properly executed surety bond as prescribed in instructions provided by the DCM.

§ 543.17 Care and safekeeping of arms, ammunition, and equipment.

(a) Club officer and designated leaders of affiliated clubs are responsible for the care and safekeeping of Government property issued. This includes adequate measures—

(1) To maintain the property in serviceable condition;

(2) To prevent its use by unauthorized persons or its misuse; and

(3) To insure the safekeeping of arms in accordance with paragraph (g) of this section.

(b) Clubs may be denied affiliation, may be suspended, or may be removed from the rolls if the DCM considers safekeeping provisions inadequate.

(c) Clubs may modify caliber .22 rifles by installing accessory rails, improved front sights, etc., and by shortening the pull of the stock, to make the rifle easier for junior members to use. These alterations, however, must be professionally performed and must not make the rifle unserviceable if removed or restored. Requests for authorization for modifications must be approved by the DCM. Under no circumstances may the barrel be altered.

(d) If government property is lost, stolen, or otherwise unaccounted for, club officials must inform the DCM by telephone within 24 hours after detection of the loss or theft and notify local police and the Federal Bureau of Investigation (FBI).

(e) A lost or stolen Government firearm continues to be accountable

Government property and thus remains permanently in Army and FBI records even though the cost is repaid.

(f) Arms issued to clubs by the DCM will include a receipt, in duplicate, which names the club to which issued and identifies each arm by service or commercial model designation, caliber, and serial number, together with principal accessories such as sights. These receipts are part of official Government records. Arms returned to the DCM or to a Government facility specified by the DCM will be covered by a letter providing this same information.

(g) The following additional rules govern the safekeeping of Government arms by clubs:

(1) Each club will designate a responsible senior member as official club custodian of arms on loan from the DCM.

(2) When arms issued by the DCM are received, the club custodian will—

(i) Verify the complete identification of each;

(ii) Sign and return to the DCM one copy of the receipt which accompanied the arms;

(iii) file a copy as part of the club's official records; and

(iv) Notify the DCM promptly if the receipt shows any discrepancy, so it can be resolved.

(3) The club custodian may issue DCM arms to the custody of individual adult club members if he or she has confirmed that the individuals concerned can provide the security required by this regulation. Such issue to individuals is encouraged, among other reasons in order to disperse the club inventory against planned theft.

(4) Issues by the club custodian to individual club members will be by hand-receipt prepared in duplicate. (The original of the signed receipt will be made a part of the club's official records, and the copy will be provided to the recipient). These forms will include a statement of the prescribed security measures, and, when filled in, will show—

(i) the club name and the name, address, and signature of recipient and complete identification of the arms including serial numbers and principal accessories such as sights; and

(ii) The name, address, and signature of the club official making the issue.

(5) The following security measures are prescribed for arms issued by the DCM when not in use:

(i) Arms may not be left unattended in view, or in containers readily recognizable as being intended for firearms, while in transit.

(ii) Arms may be stored in the homes of the club custodian and of individual

members. Arms, as stored, must not be in view. They must be kept either in a locked container made of not lighter than 12-gauge metal that is secured to the structure of the residence or in a locked closet or room.

(iii) Arms may be stored in unoccupied facilities such as schools, clubs, or ranges if kept as prescribed in paragraph (g) of this section, and, in addition, if the facility has security surveillance by an alarm system or by local police or guards.

(iv) Not more than 20 DCM issued arms of all types, but not more than 12 service type rifles, may be stored in any one residence or facility other than a military or law enforcement facility.

(v) Storage, will, in addition, conform to local ordinances and regulations, if any.

(vi) Storage at a military or law enforcement facility is encouraged when deemed feasible by the club.

(vii) The club custodian will confirm, by physical inventory, the club's DCM issued arms, including serial numbers, for the required annual inventory, DA Form 1275.

§ 543.18 Defective ammunition.

(a) If unserviceable ammunition is received from DCM, a club—

(1) Will, within 30 days, send a request for replacement to Cdr, US Army Armament Materiel Readiness Command, Rock Island, IL 61201.

(2) Will include the following in their request:

(i) Nomenclature and lot number of the ammunition;

(ii) Date received and the shipper;

(iii) Quantity on hand for which replacement is desired; and

(iv) Reasons for requesting replacement.

(3) Will not send samples unless requested.

(b) The US Army Armament Materiel Development and Readiness Command will replace ammunition found to be defective on a round-for-round basis at no cost to the club.

(c) Clubs having unserviceable ammunition and no disposal facilities may return it to the supplying depot, with a written statement to the commanding officer relinquishing claim to the ammunition and requesting that it be accepted for disposition.

§ 543.19 Other defective equipment.

Clubs holding other equipment, including rifles that becomes unserviceable will report the equipment to the DCM. The DCM will advise the club how to return the equipment. If the club is found responsible for the damage to the equipment, the extent of the

damage will be determined and the DCM will require reimbursement by the club. Equipment returned may be replaced following any required payment. If the club is not responsible for the damage it will not have to pay for the equipment.

§ 543.20 Transportation of equipment.

Transportation of rifles, ammunition, and other supplies between Government depots and clubs will be as prescribed by the DCM.

Subpart F—Civilian Use of Government Rifle Ranges

§ 543.21 Application for use of ranges.

(a) For use of a range at which Regular Army personnel are stationed—

(1) A club official will send a request to the DCM.

(2) The DCM will validate the request and return it, together with a letter of approval, subject to local range regulations.

(3) The club official will then send a request for preferred dates to the controlling commanding officer (CO) (inclosing the DCM approval).

(4) The CO will—

(i) Approve the request if feasible.

(ii) Indicate dates the range will be available.

(iii) Advise the club where to report upon arrival at the range.

(5) The club official may make arrangements for further use of the range without going through the DCM.

(b) For use of a range at which Regular Army personnel are not stationed—

(1) A club official will send a request to the DCM.

(2) The DCM will—

(i) Request permission from the State Adjutant General or other agency concerned; and

(ii) Advise the club of the result.

(3) The club will arrange further details.

§ 543.22 Range control.

(a) Personnel.

(1) COs may detail people to supervise rifle practice. They will—

(i) Insure the proper use of Government property.

(ii) Enforce compliance with local safety and other regulations.

(2) COs may provide marksmanship coaches if requested and if qualified instructors are available.

(3) Clubs will furnish:

(i) Pit details;

(ii) Target handlers;

(iii) Road guards;

(iv) Scorers;

(v) Other needed personnel.

(b) Range material.

(1) COs will provide telephones (if available) for pit-to-firing line and similar communications.

(2) Either the installation or the club will provide regular targets and target frames.

(3) The club will provide material such as—

- (i) Special targets;
- (ii) Field glasses;
- (iii) Telescopes; and
- (iv) Score books.

(4)(i) The arms, ammunition, method of firing, and target arrangements may differ from military standards, provided safety precautions are observed.

(ii) Users will record the arrangement of the range, and restore this configuration after firing.

§ 543.23 Arms and ammunition.

Civilian organizations will furnish their own arms and ammunition.

§ 543.24 Record practice for qualification.

The commander controlling the range may designate one or more days when members of civilian organizations may participate in military record practice for qualification. Participating civilians will provide the necessary personnel to supervise and record the firing of the butts and firing point.

§ 543.25 Denial of privileges.

Controlling commanders may refuse the use of the range and installation to any person—

(a) Who willfully disobeys range rules.

(b) Whose conduct on the range or installation warrants such action.

(c) Whose knowledge of the principles of marksmanship is deficient to a degree of posing a safety hazard.

Subpart G—Civilian Marksmanship Support Other Than Through DCM Affiliated Clubs**§ 543.26 Authorized organizations.**

Certain nonprofit civic groups may buy up to 300 rounds of caliber .22 ammunition for each eligible member aged 10 through 20 years who takes part in a marksmanship training program with approval by the DCM. Qualifying types of groups include summer camps, and marksmanship programs conducted by the YMCA, YWCA, Boy Scouts, and Girl Scouts.

§ 543.27 Procedures.

Qualifying groups will pay the acquisition cost plus packing, crating, and handling charges. They will submit requests to the following who will forward approved requests to the proper

agencies for processing: Director of Civilian Marksmanship, Department of the Army, Washington, DC 20314.

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BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Parts 88 and 89**

[CGD 77-233]

Navigation Lights for Small Vessels

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules withdrawn.

SUMMARY: In the Federal Register of September 7, 1978, and December 29, 1980, the Coast Guard proposed requirements for approval, certification, installation, and performance of navigation lights on vessels of less than 20 meters in length, that must comply with the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS). A determination has been made not to finalize the proposed rules, and accordingly, the rule making is terminated. A voluntary standard has been developed for determining whether navigation lights used on small vessels comply with 72 COLREGS requirements, and along with current Coast Guard enforcement policies, the standard should alleviate the need for implementing regulations.

ADDRESS: The ABYC Standard referenced in this notice may be obtained at a cost of \$3.00 from the American Boat and Yacht Council, Inc., P.O. Box 806, Amityville, N.Y. 11701. Commandant Instruction 16672.1 may be obtained from the Office of Boating, Public, and Consumer Affairs (G-BBT/2), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Lysle Gray, Office of Boating, Public and Consumer Affairs (G-BBT/2), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202/426-4207).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the Federal Register of September 7, 1978 (43 FR 39946). A supplemental notice of proposed rule making was published in the Federal Register of December 29, 1980 (45 FR 85468). The Coast Guard enforcement policy for navigation lights is outlined in Commandant Instruction 16672.1. The voluntary standard recently developed for 72 COLREGS lights is ABYC

Standard A-16, published by the American Boat and Yacht Council, Inc. Copies of the standard and the Commandant Instruction may be obtained by writing to the appropriate address listed above under "Addresses."

The proposed regulations would have established requirements for approval, certification, installation, and performance of navigation lights on vessels of less than 20 meters in length that must comply with the 72 COLREGS. The 72 COLREGS contain, among other things, technical performance requirements for navigation lights installed on these vessels. Originally, a determination was made that implementing regulations were needed to avoid misunderstanding and misinterpretation of applicable 72 COLREGS requirements, and to assure that navigation lights would be manufactured in accordance with these requirements.

As the rule making proceeding progressed, the American Boat and Yacht Council developed and adopted a voluntary standard to cover various technical details in the 72 COLREGS. This standard provides reliable test methods and criteria for determining whether navigation lights designed for small vessels comply with 72 COLREGS requirements, and along with current Coast Guard enforcement policies, it should alleviate the need for any implementing regulations. In addition, the voluntary standard includes sufficient explanation and guidance to minimize the possibility of misinterpreting 72 COLREGS provisions.

The voluntary standard adopts the Coast Guard's interpretation of "practical cut-off" that was proposed in the supplemental notice of proposed rule making. Section 88.5 of the proposed rules provided that "for vessels less than 20 meters in length, the term 'practical cut-off' used in Section 9, of Annex I, of the 72 COLREGS, means 67 percent of minimum required intensity. In addition, for practical cut-off to be reached, the intensity must decrease to 10 percent of minimum required intensity by 20 degrees outside the prescribed horizontal sector, required in Rule 21 of the 72 COLREGS." This interpretation of "practical cut-off" has also been proposed in the Inland Navigation Rules (Annex I) published in the Federal Register of July 16, 1981, beginning on page 37002.

[33 U.S.C. 1607; 46 U.S.C. 1454; 49 CFR 1.46]

Dated: December 30, 1981.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 82-205 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. FEMA-205]

Temporary Housing Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: This proposed rule will implement the temporary housing provisions of the Disaster Relief Act of 1974, Public Law 93-288, 42 U.S.C. 5174. This will clarify and update current regulations, based on formal policy review and on three additional years of program experience.

DATE: Interested persons may participate in this rulemaking by submitting comments, which will be accepted until March 8, 1982. Any comment submitted on or before that date will be carefully evaluated prior to publication of the final rule.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, S.W., Washington, D.C. 20472.

All comments, and the finding of no significant impact, in accordance with FEMA's Environmental Considerations (44 CFR Part 10), will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Kathleen Brody, Individual Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 'C' Street S.W., Washington, D.C. 20472, 202-287-0563.

SUPPLEMENTARY INFORMATION: Temporary Housing Assistance is provided to applicants who require it as a result of a major disaster or emergency declared by the President. A person or family is expected to address immediate housing needs by taking advantage of mass shelters, shelter offered by friends and family, or by using their insurance benefits to provide motel or hotel accommodations.

When longer term disaster-related housing is required, an applicant is expected to utilize insurance proceeds

before obtaining Temporary Housing assistance from the government. Both the "additional living expense" clause and the "requirements in case of loss" clause in most policies provide reimbursement for expenses applicants incur in obtaining temporary housing and protecting their permanent housing, and FEMA will not duplicate those benefits. Temporary Housing Assistance is intended to assist individuals and families when there is a demonstrated need which cannot be met by such resources.

Eligibility for Temporary Housing Assistance is determined by displacement from a primary residence. However, the fact that a home sustained damage does not automatically mean that the home is uninhabitable or that the resident will be eligible. The "uninhabitability" criteria are restrictive because FEMA judges it reasonable to expect applicants (or their landlords) to make their own minor repairs.

Assistance under this program includes the provision of available rental housing, Government-owned mobile homes, or minimal repairs.

FEMA (and its agents and predecessor agencies) have been operating pursuant to its currently published regulation (codified at 44 CFR 205.45) for three years. During that period, the operation of the program has shifted from complete Federal operation and management to a greater degree of State operation and management, with Federal oversight. In some cases, this has resulted in suggestions for improved procedures, eligibility conditions, and methods of operation.

In addition, the scope of the program has changed. Among the reasons for the changes are: the availability of insurance, the public's perception of the Government's role in providing Temporary Housing Assistance following a major disaster declaration vs. their own responsibilities, and suggestions for improved methods in the form of Temporary Housing Assistance called "minimal repairs." During this period, the ranking members of the Congressional Oversight Committee requested FEMA not to take further steps to define this type of assistance without further Congressional consultation. As a result, "limited home repairs" (LHR), a combination of temporary housing eligibility and the grant money under Section 408 of the Act (Individual and Family Grant Program), was made available to applicants. While this grant method appeared successful, it had several drawbacks, including the lessened availability to applicants of the full Section 408 grant which could have been

used to meet other necessary expenses or serious needs. FEMA has now completed its consultations with Congress, and has restructured the minimal repairs provisions to provide options, including direct funding to the applicant so he/she can contract for his/her own repairs. LHR has simultaneously been eliminated from the Individual and Family Grant Program.

The following paragraphs contain a section-by-section explanation of the major changes.

Program Intent

This paragraph was added to provide an overall philosophy against which specific and unique program decisions can be weighed. The program philosophy has been clarified in that Temporary Housing Assistance has become similar to insurance programs. Applicants (or their landlords) are expected to take care of some minor repairs which could be compared to the deductible amount on insurance claims. Additionally, assistance is based on need and provided only when adequate alternate housing is unavailable or when insurance coverage is insufficient to meet the temporary housing need. Disaster victims are expected to assume more responsibility for their recovery, e.g., for protecting and repairing their property and for obtaining adequate alternate housing as soon as possible.

Definitions

This paragraph was added to define terms which are commonly used, or terms which have a unique meaning when used in the Temporary Housing Assistance program.

General Eligibility Guidelines

Two new eligibility conditions have been added: (1) adequate alternate housing must be unavailable, and (2) insured applicants must make efforts to secure insurance benefits. Also, one new condition of ineligibility has been added: assistance shall not be provided when there is only minor damage which creates potential health and safety hazards, and it can reasonably be expected to be repaired either by applicants themselves using their own funds or insurance funds, or by their landlords if the applicants are renters. Such homes are not considered to be uninhabitable.

Duplication of Benefits

A relationship has been introduced between minimal repairs and the "requirements in case of loss" clause which is contained in most insurance policies. Under this clause, homeowners

are required to take measures to protect their property from further damage by making minimal repairs, and they are then reimbursed for the reasonable cost of taking such measures. It has been recognized that such repairs are often the same as those authorized under the minimal repairs form of Temporary Housing Assistance. FEMA will not duplicate such insurance benefits.

Priority Utilization of Resources

This paragraph has been added to provide a uniform approach to the selection of temporary housing resources for individual applicants.

Use of Minimal Repairs

This paragraph has been changed to permit the advance of funds to applicants for contract labor and repairs. Previously, FEMA provided funds only when repairs had been completed prior to the determination of feasibility for this type of assistance; otherwise, FEMA contracted for repairs or provided materials. The minimal repairs scope of work has also been redefined to exclude those items which, in and of themselves, do not make a home uninhabitable.

Use of Existing Resources

An explanation of the use of fair market rent guidelines has been added.

Use of Transient Accommodations

Additional guidance has been provided to clarify when such assistance may be provided.

Use of Mobile Homes, Travel Trailers, and Other Readily Fabricated Dwellings

The Associate Director, State and Local Programs and Support, has determined that leasing commercial sites at Federal expense is in the public interest. Previously, these expenses were to have been borne by the applicant and/or the State, unless the requirement was waived.

Supplemental Assistance

Detailed listings of authorized items have been eliminated. With regard to furniture which can be loaned to recipients of minimal repairs, a time frame of 90 days for the loan period has been established to coincide with the initial eligibility period for Temporary Housing Assistance.

Duration of Assistance

With regard to continued assistance beyond the initial eligibility period, "pursuit of responsibility to obtain alternate housing at the earliest possible time" has been added as a criterion. Although this is part of the lease or

reimbursement agreement, it has been added for reinforcement.

Disposition of Temporary Housing Units

A formula has been added for the sale of Government-owned units at an adjusted price, taking into consideration the income of those occupants who require them for their permanent housing use. The adjusted price may be used only when adequate alternate housing is unavailable, and when the occupant indicates a need for financial assistance.

Appeals

A process has been added to appeal the denial of a request to purchase a mobile home or the denial of an adjusted sales price.

Federal Responsibility

This paragraph has been altered to clarify that Federal financial and operational responsibility for Temporary Housing Assistance shall not exceed eighteen months, unless extended by the Associate Director. Previously, the regulation was often misinterpreted to include only operational aspects.

Non-Federal Administration of Temporary Housing Assistance

This section has been added to address issues related to the management and operation of the Temporary Housing Assistance program by States, local governments, or any other non-Federal entity, with Federal oversight. It specifies the conditions under which the administering entity and the Federal Government will cooperate in the operation of the program, and the conditions for reimbursement for carrying out this Federal function.

FEMA has determined that there will be no significant impact on the environment caused by implementation of these proposed regulations. Recently, an amendment to FEMA's final rule on Environmental Considerations (44 CFR Part 10) was published at 45 FR 67686. That amendment provided categorical exclusions for all Temporary Housing Assistance, except for development of group sites or placement of mobile homes, travel trailers or other readily fabricated dwellings on these group sites. An environmental assessment resulting in a finding of no significant impact has therefore been prepared in accordance with 44 CFR 10.9(e), and pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1508). Copies of this assessment may be inspected or

obtained at the Office of Disaster Assistance Programs, Individual Assistance Division, or at the Office of the Rules Docket Clerk, at the address stated above. An environmental impact statement will not be prepared.

This rule has been determined not to be a "major rule" within the context of Executive Order 12291 for the following reasons:

(1) It will not have an annual effect on the economy of \$100 million or more;

(2) It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) It will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

As this regulation concerns individuals, it does not have a substantial impact on small entities; therefore, an initial regulatory impact analysis will not be prepared.

This rule implements Section 404 of the Disaster Relief Act of 1974, and is issued under the authority of Section 601 of the Act.

PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93-288)

The Associate Director, State and Local Programs and Support, proposes to remove 44 CFR 205.45 and to add a new 44 CFR 205.52, as follows:

§ 205.52 Temporary housing assistance.

(a) *Purpose.* This section prescribes the policy and program guidance to be followed by the Federal Government or any other organization when implementing Section 404, Disaster Relief Act of 1974, 42 U.S.C. 5174.

(b) *Program intent.* Assistance under this program is made available to applicants who require temporary housing as a result of a major disaster or emergency declared by the President. Eligibility for assistance is based on need, defined by displacement and lack of adequate insurance coverage, or a lack of resources to immediately satisfy adequate alternate housing needs. Applicants are encouraged to take the initiative for obtaining temporary housing; eligible applicants may be reimbursed for authorized accommodations and repairs. Ineligibility relates only to the criteria for Temporary Housing Assistance. Denial of such assistance does not imply that repairs to a dwelling are not required. Although numerous instances

of minor damage may cause some inconvenience to the applicant, the determining eligibility factor must be whether any single item makes a unit uninhabitable. FEMA has made the assumption that it is reasonable to expect applicants or their landlords to make some repairs of a minor nature. The assistance provided is similar to some types of assistance available through insurance.

(c) *Definitions.*—(1) *"Adequate alternate housing"* means housing that:

(i) does not present health or safety hazards;

(ii) is reasonable in size to accommodate the needs of the applicant(s)/occupant(s);

(iii) is within reasonable commuting distance of work, schools or other centers of household activity;

(iv) is within the financial ability of the applicant(s)/occupant(s); and

(v) does not impose an undue burden upon the applicant(s)/occupant(s) in realization of his/her reasonable permanent housing plan.

(2) *"Existing resources"* means hotels, motels, apartments, houses, mobile homes, or any other housing unit available for lease as temporary housing.

(3) *"Fair market rent"* means a reasonable amount to pay for the size and type of accommodations provided.

(4) *"Financial ability"* means the ability of the applicant(s)/occupant(s) to pay housing costs that are less than or equal to the ratio of his/her pre-disaster housing costs to pre-disaster income, or 25% of the gross post-disaster household income, whichever is greater. Occupants who qualify for available low-income or other government rent subsidies shall be considered able to assume financial responsibility for this type of alternate housing. When computing financial ability, extreme unusual financial hardships may be considered by the Regional Director or his/her designee.

(5) *"Household"* means the residents of the pre-disaster dwelling who request Temporary Housing Assistance, plus any authorized additions during the temporary housing period, such as infants, spouses or part-time residents who were not present at the time of the disaster but who are expected to return during the temporary housing period.

(6) *"Housing costs"* means shelter rent and mortgage payments including principal, interest, real estate taxes and Homeowners Insurance. Utility costs shall not be included except for utility costs on the pre-disaster owner-occupied dwelling which are essential while the dwelling is under repair.

(7) *"Essential living area"* means that area of the dwelling essential to normal

family living, i.e., kitchen, one bathroom, dining area, living room, entrances and exits, and essential sleeping areas. It does not include family rooms, guest rooms, garages, or other non-essential areas, unless hazards exist in these areas which impact the safety of the essential living area.

(8) *"Minimal repairs"* means the necessary repairs authorized to quickly repair or restore to a habitable condition that portion of the essential living area of an owner-occupied dwelling which was damaged as a result of the disaster.

(9) *"Occupant"* means an eligible applicant residing in temporary housing provided under this section.

(10) *"Owner-occupied"* means that the residence is occupied by: the legal owner; a person who does not hold formal title to the residence but is responsible for the payment of taxes, maintenance of the residence, and pays no rent; or a person who has lifetime occupancy rights with formal title vested in another.

(11) *"Reasonable in size"* means the size of a housing unit, taking into consideration household composition (age and sex), pre-disaster housing situation, available resources and the application of the following occupancy table:

Number of bedrooms	0	1	2	3	4	5
Minimum/maximum occupants.....	1-2	1-2	2-4	3-6	4-8	5-10

This definition should be used as a guide in meeting minimum temporary housing requirements as well as in making referrals to adequate alternate housing.

(12) *"Primary dwelling"* means the residence where the applicant normally lives during the major portion of the calendar year, or a residence which is required because of proximity to employment.

(13) *"Transient accommodations"* means hotels, motels, or other similar accommodations which are utilized to assist eligible applicants who require temporary housing for only a short period of time or who require such assistance pending provision of other types of Temporary Housing Assistance.

(d) *Duplication of benefits.* Assistance under Section 404 shall not be provided to an applicant if such assistance has been provided by any other source. If any State or local government or volunteer agency has provided temporary housing, the assistance under this section begins at the expiration of such assistance. If it is determined that Temporary Housing Assistance will be

provided under this section, notification shall be provided to any other agency which has the potential to duplicate such assistance. In the instance of insured applicants, assistance shall not be provided if proceeds are available, except as indicated in the following subparagraphs:

(1) *Additional living expense (ALE) coverage.* An insured applicant who has ALE coverage may be provided Temporary Housing Assistance only if he/she has made every reasonable effort to secure ALE benefits and when:

(i) There is uncertainty as to whether the benefits will be paid;

(ii) Payment of the benefits may be significantly delayed;

(iii) Such benefits have been exhausted;

(iv) Such benefits are insufficient to provide the full cost of rental housing on the private market; or

(v) Housing is not available on the private market.

Applicants who are determined eligible for Temporary Housing Assistance and who have received ALE may be provided Temporary Housing Assistance upon presentation of proof that the benefits have been exhausted and temporary housing remains a need. These applicants shall be eligible for rent-free Temporary Housing Assistance not to exceed twelve months following exhaustion of ALE if the criteria for continued assistance, sub-paragraph (o)(3) of this section, are met. For applicants who are determined eligible for Temporary Housing Assistance and who received insufficient ALE benefits, the period of Temporary Housing Assistance shall commence with the first month of partial assistance.

(2) *"Requirements in Case of Loss" Clause and other structural/content coverage.* FEMA has recognized the potential for duplication between minimal repairs and the "requirements in case of loss" clause in insurance policies. Under this clause, insured homeowners are required to take measures to protect their property from further damage by making minimal repairs, and they are then reimbursed for the reasonable cost of taking such measures. Such repairs are often the same as those authorized under minimal repairs. Additionally, FEMA recognizes that repairs not covered under this clause should be covered in whole or in part by other clauses of the policy and/or by other sources. Therefore, insured applicants who are determined eligible for Temporary Housing Assistance shall be provided minimal repairs only if they have made every reasonable effort to

secure those insurance benefits and when:

- (i) There is uncertainty as to whether the insurance benefits will be paid;
- (ii) Payment of all or part of insurance benefits applicable to the minimal repairs may be significantly delayed; or
- (iii) When an item in the scope of work is not covered by any part of the insurance policy, e.g., wells and septic tanks are not covered under the National Flood Insurance Program (NFIP).

(3) *Recovery of funds.* Prior to provision of assistance, the insured applicant shall agree to repay FEMA from insurance proceeds he/she receives for shelter in an amount equivalent to the fair market value of assistance provided, or that portion of insurance proceeds received for such housing, whichever is less. Minimal repairs recipients shall repay to FEMA the full cost of any repairs or replacement which are covered by insurance, or the amount received from insurance proceeds for the items repaired or replaced, whichever is less.

(e) *Applications.*—(1) *Application period.* Applications for Temporary Housing Assistance shall be accepted for a sixty (60) day period following the date of the declaration of a major disaster or emergency, unless additional time for submission of applications is authorized by the Regional Director in order to achieve uniformity of application periods in contiguous states. After the established period, applications shall be accepted, however, processing shall be completed on a case-by-case basis only when authorized by the Regional Director or his/her designee, for reasons such as, but not limited to:

- (i) Hospitalization, age, illness, handicap, or death in the immediate family, which prevented application;
- (ii) Inability to contact the assistance offices because of inaccessibility, lack of transportation, or communications;
- (iii) An inability to understand written or oral messages regarding the assistance offered, application process, or deadlines;
- (iv) Eviction, when disaster related, where notification is made near or after the close of the application period; or
- (v) Exhaustion of insurance benefits after the application period.

(2) *Household composition.* Members of a household shall be included on a single application and provided a single temporary housing dwelling unless the size of the household requires more than one dwelling.

(f) *General eligibility guidelines.* Temporary Housing Assistance may be made available to those applicants who,

as a result of a major disaster or emergency declared by the President, require such assistance.

(1) *Conditions of eligibility.* Temporary Housing Assistance may be provided only when all of the following conditions are met:

(i) The applicant's primary dwelling has been made uninhabitable or the applicant has been displaced because:

(A) The dwelling has been destroyed, essential utility service has been interrupted, or the essential living areas have been damaged as a result of the disaster to such an extent as to constitute a serious health or safety hazard which did not exist prior to the disaster. Guidelines defining health and safety hazards as they apply to a particular disaster shall be prepared by the Regional Director;

(B) The dwelling has been made inaccessible after the incident, due to the disruption or destruction of transportation routes, other impediments to access, or restrictions on movement by a responsible official;

(C) The owner requires the dwelling to meet his/her personal needs resulting from the disaster;

(D) Financial hardship resulting from the disaster has led to eviction or dispossession; or

(E) Other circumstances resulting from the disaster, as determined by the Regional Director, prevent the applicant from occupying his/her dwelling.

(ii) No adequate alternate housing is available. Adequate alternate housing means any existing resource, including a secondary, vacation or recreational dwelling or unoccupied rental property owned by the applicant, which meets the criteria in sub-paragraph (c)(4) of this section. Exception: This condition shall not be applied to those applicants recommended for minimal repairs.

(iii) Insured applicants have made every reasonable effort to secure insurance benefits, available proceeds are insufficient as defined in paragraph (d) of this section, and the insured has agreed to repay FEMA from whatever insurance proceeds are later received, pursuant to subparagraph (d)(3) of this section.

(2) *Conditions of ineligibility.* Temporary Housing Assistance shall not be provided:

(i) To an applicant who is displaced from a secondary, vacation or recreational dwelling;

(ii) To an applicant who is displaced solely as a consequence of a redevelopment program undertaken by a community; or

(iii) When only minor damage which creates potential or minor health or safety hazards exists and it can

reasonably be expected to be repaired by the applicant-owner or the landlord.

(g) *Temporary housing resources.* The form of temporary housing provided may include:

(1) *Minimal repairs.* These may be accomplished by provision of funds, government contract, and/or provision of materials.

(2) *Existing resources.* These may include locally available government-owned or assisted properties and private or commercial properties such as apartments, houses, hotels, motels, mobile homes, or similar accommodations.

(3) *Mobile homes, travel trailers, or other readily fabricated dwellings* owned or leased by the Government.

(h) *Priority utilization of resources.* The form of temporary housing provided should not exceed the eligible applicants' minimum requirements, taking into consideration items such as timely availability, cost-effectiveness, permanent housing plans, special needs (handicaps, etc.) of the applicants, and the requirements of FEMA's floodplain regulations at 44 CFR 9. Applicants who are recommended for minimal repairs shall be provided this form of assistance unless extraordinary circumstances warrant provision of another resource in lieu of minimal repairs. Existing resources shall be utilized to the fullest extent practicable prior to provision of government-owned mobile homes. An applicant shall receive only one form of temporary housing, except for transient accommodations, or when provision of another form is in the best interest of the Government for reasons such as cost-effectiveness. An eligible applicant is expected to accept the first offer of temporary housing; unwarranted refusal shall result in forfeiture of Temporary Housing Assistance.

(i) *Use of minimal repairs.* Necessary minimal repairs may be authorized to quickly repair or restore to a habitable condition that portion of the essential living area of, or private access to an owner-occupied dwelling, which was damaged as a result of the disaster. Assistance shall not be used for major reconstruction or rehabilitation. Installation of utilities or conveniences not available in the dwelling prior to the disaster shall not be provided under minimal repairs. However, all permanent repairs which are undertaken shall conform to local and/or State building codes; upgrading of existing utilities may be authorized when required by these codes.

(1) *Requirements of the Flood Disaster Protection Act.* The Flood Disaster Protection Act of 1973, Public

Law 93-234, as amended, imposes certain restrictions on approval of Federal financial assistance for acquisition and construction purposes. Because minimal repairs are a form of Federal financial assistance for acquisition and construction purposes, these restrictions apply to the provision of minimal repairs. The provision of temporary housing with existing resources or mobile homes does not trigger flood insurance requirements. For the application of the Flood Disaster Protection Act of 1973 to mobile home sales see sub-paragraph (r)(2)(iv) of this section of the regulations. Subpart K of these regulations implements Public Law 93-234 for FEMA assistance generally. This paragraph refines those requirements for the minimal repair program. To the extent that this paragraph is inconsistent with Subpart K, this paragraph applies.

(i) Minimal repairs for a dwelling damaged by flooding may not be provided where the structure to which the assistance relates is located in a designated special flood hazard area which has been identified by the Director for at least one year as floodprone, unless the community in which the structure is located is participating in the National Flood Insurance Program (NFIP). However, if a community qualifies for and enters the NFIP during the six-month period described in 44 CFR 205.253(a)(3)(i), minimal repairs may be provided as otherwise authorized by this section. Please Note: Minimal repairs may be provided, without regard to community participation in the NFIP, for a dwelling (or the insurable contents of a dwelling) damaged by something other than flooding.

(ii) Minimal repairs for a dwelling damaged by flooding may not be provided where the structure to which the assistance relates is located in a designated special flood hazard area in which the sale of flood insurance is available under the NFIP unless the owner agrees to purchase and maintain an adequate flood insurance policy. An adequate policy, for purposes of minimal repairs, means a policy which meets the program requirements of the agency delivering assistance for subsequent permanent repairs or, for owners receiving only assistance for minimal repairs, a three-year policy under the NFIP or a similar policy which provides coverage for at least the amount of minimal repairs provided for insurable items, i.e., repairs to the dwelling and the repair or replacement of equipment, fixtures and furnishings contained or to be contained in the dwelling (regardless

of whether the dwelling itself is being repaired). If the same premium will provide more than the required coverage, the higher coverage should be obtained. There are no further requirements on an owner receiving only assistance for minimal repairs to renew the three-year policy, since the Associate Director has determined that such purchase complies with the requirements of the Flood Disaster Protection Act of 1973. Nevertheless, owners should be encouraged to protect themselves by renewing their insurance periodically. Please Note: Minimal repairs may be provided without regard to insurance purchase requirements for a dwelling (or insurable contents of a dwelling) damaged by something other than flooding.

(iii) Individuals and families who are required to buy flood insurance must provide proof of purchase to the Regional Director. This responsibility may be discharged after obtaining insurance on the entire Federal investment relating to the repairs for a dwelling or the repair or replacement of insurable equipment, fixtures or furnishings (e.g., from the Small Business Administration, Farmers Home Administration or the Individual and Family Grant Program). If no further Federal assistance beyond minimal repairs is provided for such purposes, then the applicant must purchase an adequate policy and provide proof of purchase to the Regional Director forthwith.

(2) *Feasibility.* Minimal repairs may be provided to those eligible applicants:

(i) Who are owner-occupants of the dwelling to be made habitable;

(ii) Whose property can be made habitable within 30 days following the feasibility determination. The Regional Director may extend this period for extenuating circumstances such as when there are insufficient contractors to meet the time limitation, but this type of assistance is more cost-effective, timely and otherwise suitable than other options for temporary housing;

(iii) Whose property can be made habitable within the amount required to assist a typical household in an existing resource for twelve months. To determine this cost limitation:

(A) Total the rental amounts established as fair market rent guidelines in each designated area for bedroom sizes one through four;

(B) Divide each total dollar figure by four;

(C) Add together all the average amounts derived in sub-paragraph (i)(2)(iii)(B);

(D) Divide the overall total computed in sub-paragraph (i)(2)(iii)(C) by the number of designated areas used in this computation; and

(E) Multiply the result by twelve.

The Associate Director may waive this cost limitation when this type of assistance is cost-effective in comparison to other options for temporary housing resources; and

(iv) Who certify that they will obtain and maintain an adequate flood insurance policy if the purchase requirements of sub-paragraph (i)(1) apply.

(3) *Options for minimal repairs.* Eligible applicants approved for minimal repairs may be assisted through one or a combination of the following methods:

(i) Advance of funds for contract labor and materials, as well as reimbursement for completed authorized items;

(ii) Provision of materials and replacement items; or

(iii) Government awarded repair contracts, when authorized by the Associate Director.

(4) *Scope of work.* The type of repair or replacement authorized may vary depending upon the nature of the disaster. Items will be repaired where feasible or replaced only when necessary to insure the safety, security or health of the occupant. Replacement items shall not exceed the minimum quality, size, and capacity requirements of the occupant(s). Minimal repairs shall be limited to:

(i) Repairs to the plumbing system, including repairs to or replacement of fixtures, providing service to the kitchen and one bathroom;

(ii) Repairs to the electrical system providing service to essential living areas, including repairs to or replacement of fixtures, but excluding outlets;

(iii) Repairs to the heating unit, including repairs to ducting, venting, and integral fuel and electrical systems. Replacement of a heating unit may be authorized by the Regional Director when an inspection shows that the unit has been damaged beyond repair, or when the unavailability of necessary parts or components makes repair impossible. Repair or replacement of the heating unit will be authorized only when repair or replacement through other forms of assistance cannot be accomplished before the season requiring heat;

(iv) Repairs to or replacement of essential components of the fuel system to provide for cooking, and to provide for heating when repair or replacement of the heating unit is authorized in sub-paragraph (i)(4)(iii);

(v) Pumping and cleaning of the septic system, repairs to or replacement of the tank, drainfield, or repairs to sewer lines;

(vi) Flushing and/or purifying the water well, and repairs to or replacement of the pump, controls, tank and pipes;

(vii) Repairs to or replacement of exterior doors, repair of windows when the repair required exceeds glazing, and screens needed for health purposes;

(viii) Repairs to the stove and refrigerator, when feasible in lieu of provision of these items under paragraph (n) of this section;

(ix) Temporary weather-proofing repairs to the roof, only when multiple or severe roof leaks affect the essential living areas;

(x) Temporary repairs to interior floors, when severe buckling or deterioration creates a serious safety hazard;

(xi) Repairs to private access routes;

(xii) Blocking, leveling and anchoring of a mobile home;

(xiii) Reconnecting and/or resetting mobile home sewer, water, electrical and fuel lines and tanks;

(xiv) Towing necessary to remove a mobile home from its original site and to replace it on the original site, only when necessary to accomplish work described in sub-paragraphs (i)(4)(xii) or (i)(4)(xiii); and

(xv) Elimination of other health and safety hazards or essential repair items which are authorized by the Regional Director and which are not available through emergency services provided by volunteer or community agencies, and cannot reasonably be expected to be completed by the applicant.

(j) *Use of existing resources.* Payment for utilization of government-owned or assisted properties shall in accordance with memoranda of understanding between FEMA and the donating agency. Owners/agents of private or commercial properties may be paid fair market rent for the type and size of units made available. At each disaster site, fair market rent guidelines for each size resource shall be established by averaging the cost of available resources per bedroom size for each locality where temporary housing will be provided. Where privately-owned mobile homes are to be used, a separate guideline should be developed because of the substantial difference in rent between this type of dwelling and conventional housing. Guidelines for hotels, motels and other short-term resources shall be developed only when there is a substantial variance in price among the available supply. The purpose of these fair market rent guidelines is to prevent

development of an inflated rental market resulting from the disaster and to insure cost-effectiveness. These guidelines reflect the desired maximum payment; however, many resources should be obtained at a lower price. Use of resources more costly than the guidelines may be authorized for full payment only when other existing resources are not available. When authorized by the Regional Director or his/her designee, the Federal government may pay for security deposits; however, the owner or occupant shall reimburse the full amount to the Federal government at the time that temporary housing assistance is terminated.

(k) *Use of transient accommodations.* Disaster victims are expected to stay with family or friends, or to make use of mass shelters to the fullest extent possible for short-term housing. However, transient accommodations may be provided when individual circumstances warrant such assistance for only a short period of time or pending provision of another temporary housing resource. Transient accommodations may be provided for up to 30 days unless this period is extended by the Regional Director. Authorized expenditures for transient accommodations shall be limited to the rental cost including utilities except for those which are separately metered. Payment for food, telephone, or other similar services is not authorized under this section.

(l) *Use of mobile homes, travel trailers, and other readily fabricated dwellings.* Government-owned or privately-owned mobile homes, travel trailers, and other readily fabricated dwellings may be placed on commercial, private or group sites as follows:

(1) A commercial site is a site customarily leased for a fee because it is fully equipped to accommodate a temporary housing unit. The Associate Director has determined that leasing commercial sites at Federal expense is in the public interest. When the Associate Director determines that upgrading of a commercial site or installation of utilities on such a site will provide more cost-effective, timely and suitable temporary housing than other types of resources, he/she may authorize such action at Federal expense.

(2) A private site is a site provided or obtained by the applicant at no cost to the Federal Government. The Associate Director has determined that installation or repairs of essential utilities on private sites is in the public interest and the cost of such installation and connection

of necessary utilities to service the unit is authorized at Federal expense.

(3) A group site is a site which accommodates two or more units and is provided or obtained by a State or local government or other organization, completely developed with all essential utilities at no cost to the Federal Government. However, the Associate Director may authorize development of group sites, including installation of essential utilities, at Federal expense based upon a recommendation from the Regional Director indicating that all other efforts to obtain funding have been exhausted.

(m) *Utility costs.* Utility use costs for all forms of temporary housing other than transient accommodations where utilities are not separately metered shall be the responsibility of the occupant, unless the Associate Director waives this requirement when such action is in the public interest, for example, to alleviate a burden placed on temporary housing occupants. In those cases where the Federal Government becomes the guarantor for utility services not metered separately, or where the utility costs are included in rental costs, each occupant household will be assessed a monthly amount equivalent to the pro rata cost of utility services. Utility deposits shall be the responsibility of the occupant.

(n) *Supplemental assistance.* Essential furniture and household kits may be provided to eligible applicants if they are being assisted in a temporary housing resource which is not furnished with these items and the items are required to occupy such temporary housing. Items provided shall be of simple construction and functional quality.

(1) *Household kits.* Household items provided to eligible applicants shall be considered expendable.

(2) *Furniture items.* Furniture shall be obtained in the most practical manner and may be purchased, leased, leased with a time purchase option or obtained from Federal stocks. Furniture items are provided on a loan basis for the duration of temporary housing assistance, or for minimal repairs recipient for a period not to exceed 90 days from date of delivery, unless extended by the Regional Director.

(3) *Disposition of furniture items.* (i) Furniture made available to temporary housing applicants shall be disposed of in one of the following ways:

(A) In those instances where furniture has been leased with a time purchase option, the occupant may purchase the items from the lessor at the time his/her temporary assistance is terminated; or

(B) If the furniture has been purchased or if the purchase option under a lease contact has been exercised by the government prior to termination of assistance, the items or the property of the Federal Government and may be:

(1) Sold to the occupant at a fair and equitable price based on the fair market value of the furniture. The purchase price may be adjusted to take into consideration the reasonable ability of the purchaser to pay or the cost to the government to retain these items; or

(2) Disposed of in accordance with Federal property management procedures at 41 CFR 101-45.5, Abandonment or Destruction of Surplus Property.

(o) *Duration of assistance.*—(1) *Commencement.* Temporary Housing Assistance may be provided as of the date of incident of the major disaster or emergency as specified in the Federal Register Notice. The assistance period shall commence either with the date the eligible applicant obtained his/her own temporary housing, or with the date the eligible applicant is provided with temporary housing.

(2) *Recertification.* Recertification is a periodic review of the status of each temporary housing occupant household to determine eligibility for continued assistance. The period of eligibility for continued assistance shall be determined on the basis of need. Eligibility for continued assistance shall be recertified no less frequently than every 90 days and shall result in a written notification to the occupant. A realistic alternate housing plan shall be developed for each occupant no later than at the time of the first recertification.

(3) *Criteria for continued eligibility.* A temporary housing occupant shall make every effort to obtain and occupy alternate housing at the earliest possible time. A temporary housing occupant shall be eligible for continued assistance when:

(i) Adequate alternate housing is not available to the occupant; and

(ii) The occupant(s) is in compliance with the terms of the lease/rental agreement including:

(A) Prompt payment of utility, rent, and other appropriate charges authorized by the Regional Director or his/her designee;

(B) Maintenance of the temporary housing unit and behavior in a manner normally expected of a tenant of rental housing;

(C) Utilization of the unit as a dwelling for the occupant's household;

(D) Reimbursement to the Government where all or a portion of the temporary

housing assistance represents a duplication of benefits; and

(E) Fulfillment of responsibility to obtain alternate housing at the earliest possible time.

(p) *Rental policy.* No rental shall be established for the first twelve months of occupancy in temporary housing including occupancy in transient accommodations. Thereafter, provided adequate alternate housing is unavailable, rentals shall be established based on the fair market rent for the accommodations provided. Such rentals shall be adjusted to take into consideration the financial ability of the household. Based on information obtained through recertification, occupants will be notified of the date and the amount of the first rental payment at least 30 days before the expiration of the first twelve months of occupancy.

(q) *Termination of assistance.*—(1) *Grounds for Termination.* Termination of Temporary Housing Assistance may be initiated with a 30-day written notice after which 30 days the occupant shall be liable for such additional charges as are deemed appropriate by the Regional Director or his/her designee. Termination may be in the form of eviction from temporary housing or termination of financial assistance. Temporary Housing Assistance may be terminated for reasons including, but not limited to, the following:

(i) A determination has been made through the recertification process, or at any time, that adequate alternate housing is available to the occupant(s);

(ii) Determination that the temporary housing assistance was obtained either through misrepresentation or fraud; or

(iii) Failure to comply with any term of the lease/rental agreement including those defined in sub-paragraph (o)(3)(ii).

(2) *Pre-termination procedures.* (i) *Termination of benefits.* Written notice shall be delivered to the occupant(s) at least 30 days prior to the proposed termination of assistance or eviction by FEMA (or in these pre-termination procedures any entity designated by FEMA to administer temporary housing assistance), specifying: the reasons for termination of assistance or occupancy; the date of termination, which shall be not less than 30 days after receipt of the notice; and the administrative procedure available to the occupant(s) if he/she wishes to dispute the action.

(ii) *Administrative procedure prior to hearing.* This procedure shall be utilized in all instances except when a State is administering Temporary Housing Assistance. States shall be subject to their own procedures provided they afford the occupant(s) with basic due

process safeguards including: cross-examination, access to the documents on which the State is relying, the right to counsel, the right to present evidence, and the right to a written decision.

(A) *Filing of complaint.* If the occupant desires to dispute the termination, upon receipt of the written notice specified in sub-paragraph (q)(2)(i) he/she shall present his/her complaint in writing to the appropriate FEMA office in person or by mail within five business days or such additional time as FEMA may for good cause allow. The complaint must be signed by the occupant and give the reasons why the assistance or occupancy should not be terminated and for any other action requested, such as a request for a hearing.

(B) *Informal conference.* If a hearing has not been requested, the appropriate FEMA official may, immediately upon receipt of the complaint, attempt to arrange an informal conference with the complaining occupant in an effort to settle the matter. Whether or not the matter is settled by an informal conference, an answer in writing to each complaint, dated and signed by the appropriate FEMA official, shall be delivered or mailed to the complainant within five business days after receipt of the complaint, or such additional time as FEMA may for good cause allow. The answer shall specify the determination which has been made, based on consideration of the information in the complaint and/or the information provided at any informal conference, and the specific reasons for the determination.

(iii) *Request for hearing.* If the occupant requests a hearing pursuant to sub-paragraph (q)(2)(ii)(A), a hearing date shall be scheduled promptly for a time and place reasonably convenient to the complaining occupant who shall be notified promptly thereof in writing. The notice of hearing shall specify the procedure governing the hearing.

(iv) *Hearing Panel.* (A) The Hearing Panel shall consist of three members: one occupant member, one member representing FEMA, and one impartial and disinterested member (together with an alternate) who shall be chosen by the other two Hearing Panel members. Relatives of the complaining occupant, and officials and employees of FEMA whose duties or responsibilities have directly involved them with the complaint, shall not be eligible to serve on the Panel. The impartial and disinterested member of the Panel shall not be an official or employee of the FEMA office in which the complaint originated or an occupant receiving

Temporary Housing Assistance under the Act. In the event that the two Hearing Panel members cannot agree on the third impartial member, the third member shall be appointed by the Commercial Arbitration Tribunal of the American Arbitration Association.

(B) In the event that no occupant is available for selection as a member of the Hearing Panel in accordance with these regulations, then the hearing shall be conducted by a single impartial and disinterested Hearing Officer appointed by the Commercial Arbitration Tribunal of the American Arbitration Association.

(v) *Hearing.* (A) Due process requirement. The complaining occupant shall be afforded a fair hearing provided the basic safeguards of due process as stated in sub-paragraph (q)(2)(ii) before the Hearing Panel and may be represented by counsel or another person chosen as his/her representative. The hearing shall be private unless the complainant requests a public hearing. This restriction shall not be construed to limit the attendance of persons with a valid interest in the proceedings.

(B) *Availability of documents.* The complainant may examine before the hearing and, at his/her expense, copy all documents and records of the appropriate FEMA office that are relevant to the hearing. Any document not made available, after request therefor by the complainant, may not be relied on by FEMA at the hearing. The complainant may request in advance and at his/her expense a transcript of the hearing.

(C) *Failure to appear.* If a complainant fails to appear at a hearing, the Hearing Panel may postpone the hearing for not to exceed five business days or make a determination that the complainant has waived his/her right to a hearing.

(D) *Proof.* At the hearing, the complainant must first make a prima facie case that the continuance of assistance is not inappropriate; thereafter, FEMA must sustain the burden of proof in justifying the action against which the complaint is directed. The complainant shall have the right to present evidence and arguments in support of his/her complaint, to controvert evidence relied on by FEMA, and to confront in a reasonable manner and cross-examine all witnesses on whose testimony or information FEMA relies. Hearings shall be conducted informally by the Hearing Panel and any oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to its admissibility under rules of evidence employed in judicial proceedings.

(vi) *Decision.* The decision of the Hearing Panel shall be based solely upon facts presented at the hearing and upon applicable Federal and State law, and FEMA regulations and requirements promulgated thereunder. The Hearing Panel shall prepare a written decision setting forth a statement of findings and conclusions, together with the reasons therefor, concerning all material issues raised by the parties, within five business days after the hearing, or such additional time as the Regional Director or his/her designee may for good cause allow. The decision of the Hearing Panel shall be binding on FEMA which shall take all actions necessary to carry out the decision or refrain from any action prohibited by the decision unless the FEMA General Counsel determines and notifies the complainant in writing within 30 days, or such additional time as FEMA may for good cause allow, that the decision of the Hearing Panel is not legally supportable.

(vii) *Notice to vacate premises.* If the determination under sub-paragraph (q)(2)(ii)(B) is to evict or if the occupant has requested a hearing on a notice of termination of tenancy pursuant to sub-paragraph (q)(2)(i) and the Hearing Panel upholds FEMA's decision to evict, an action to regain possession may not be commenced until the occupant(s)'s right to use and occupancy of the premises has been terminated by lawful written notice. Such notice to vacate may not be given prior to the date on which the Hearing Panel's decision is delivered or mailed to the occupant. In no case may eviction occur prior to the termination date stated in the original notice of termination of tenancy. When such notice to vacate is given to the occupant(s), he/she must be informed in writing that, if he/she fails to quit the premises within three days from receipt of notice, appropriate action shall be brought against him/her and that if suit is brought against him/her, he/she may be required to pay court costs and attorney fees.

(viii) *Termination of assistance.* If the determination under sub-paragraph (q)(2)(ii)(B) is to terminate assistance or if the Hearing Panel upholds FEMA's decision to terminate assistance for temporary housing, such assistance may be terminated in accordance with the original notice given pursuant to sub-paragraph (q)(2)(i) at any time after the 30 days specified in the original notice have elapsed.

(r) *Disposition of Temporary Housing Units.*

(1) *Acquisition.* The Associate Director may purchase mobile homes or other readily fabricated dwellings for those who require temporary housing.

After such temporary housing is vacated, it may be returned to one of the FEMA-operated Strategic Storage Centers for refurbishment and storage until needed in a subsequent major disaster or emergency.

(2) *Sales.* The Regional Director shall sell any mobile home or readily fabricated dwelling acquired by purchase directly to an occupant(s) for his/her use as adequate alternate housing in accordance with the following guidelines:

(i) *Eligibility.* The Regional Director or his/her designee shall sell units (hereafter to include mobile homes and pre-fabricated dwellings) under his/her jurisdiction if the:

(A) Unit is to be used as a primary dwelling;

(B) Unit is reasonable in size for household composition;

(C) Purchaser has a site that complies with local codes and standards as well as FEMA's floodplain management regulations at 44 CFR Part 9 (in particular Section 9.13E); and

(D) Purchaser has sufficient funds to purchase and relocate the unit.

(ii) *Sales price.* Units shall be sold at prices that are fair and equitable to the purchaser and to the government, as determined by the Associate Director. The purchaser shall pay the total sales price at the time of sale.

(iii) *Adjustment to the sales price.* (A) Policy. Adjustments to the sales price to take into consideration the financial resources of the purchaser may be provided only when both of the following conditions are met:

(1) There is a need to purchase the unit for use as the purchaser's primary residence because other adequate alternate housing is unavailable. Adequate alternate housing must meet the criteria in subparagraph (c)(1) of this section, and may consist of:

(i) Existing housing;

(ii) Additional resources such as disaster-damaged rental accommodations which can reasonably be expected to be repaired and become available in the near future;

(iii) New housing construction or housing to be made available through government subsidy which is included in the immediate recovery plans for the area; and

(iv) Dwellings which can be repaired by the pre-disaster owner/occupant through funds available from insurance, other disaster assistance programs, or through his/her own resources.

(2) In addition to his/her own resources, the purchaser cannot obtain sufficient funds through insurance proceeds, disaster loans, grants, and

commercial lending institutions to cover the sales price.

(B) *Calculating the adjustment.* The adjustment shall be the difference between the amount required by the purchaser after all resources have been exhausted and one quarter of his/her gross annual income, less allowable housing costs. In no instance shall the sales price be less than \$1.00 with all such sales to be approved by the Regional Director. Allowable housing costs shall include:

(1) An amount equal to the actual annual pad rental, or the cost for purchase (principal, interest and taxes) and development of a permanent site up to the average annual pad rental in the area. In no instance shall such costs be allowed if covered by a disaster grant;

(2) Annual personal property or real estate taxes on the unit if not included in the mortgage payment;

(3) Annual insurance premium for the unit if not included in the mortgage payment;

(4) Annual loan payment(s) for purchase of the unit;

(5) Any expense required to bring the unit up to State and local codes; and

(6) Other expenses authorized by the Regional Director.

(iv) *Other conditions of sale.* (A) A mobile home shall be sold "as is, where is" except for repairs necessary to protect health or safety, which are to be completed prior to sale. There shall be no implied warranties. In addition, the purchaser must be informed that he/she may have to bring the unit up to applicable codes and standards.

(B) In accordance with the Flood Disaster Protection Act of 1973, Public Law 93-244, as amended, the sale of a mobile home for the purpose of meeting the need of an individual or family displaced by flooding, may not be approved where the home would be placed in a designated special flood hazard area which has been identified by the Director for at least one year as floodprone unless the community in which the home is to be located after the sale is, at the time of approval, participating in the National Flood Insurance Program. The purchaser must agree to buy and maintain an adequate flood insurance policy for as long as the home is occupied by the purchaser. An adequate policy for purposes of this paragraph shall mean one which provides coverage for the sales price of the mobile home (before any adjustment). The purchaser must provide proof of purchase for the initial flood insurance policy to the Regional Director.

(3) *Transfer.* The Associate Director may sell, lend, or donate temporary

housing units purchased under Section 404(a) of the Act directly to States, other governmental entities, or voluntary organizations. As a condition of such transfer, the Associate Director shall require that the recipient:

(i) Utilize the units provided for the initial purpose of providing temporary housing for victims of major disasters or emergencies; and

(ii) Comply with the current applicable FEMA policies and regulations, including this section, 44 CFR Part 9 (especially Section 9.13 and 9.14), and 44 CFR 13.

The Associate Director may order returned any temporary housing unit made available under this section which is not used in accordance with the terms of transfer.

(s) *Mortgage and Rental Payments.* Temporary assistance in the form of mortgage or rental payments may be paid to or be provided on behalf of applicants who, as a result of a major disaster, have received written notice of dispossession or eviction from their primary dwelling by foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Written notice, for the purpose of this paragraph, means a communication in writing by a landlord, mortgage holder, or other party authorized under State law to file such notice, the purpose of which is to notify an occupant of impending termination of a lease, foreclosure of a mortgage or lien, or cancellation of any contract of sale, which would result in the occupant's dispossession or eviction from his dwelling. Applications for this type of assistance may be filed up to one year following the date of declaration of the major disaster. The assistance may be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is less. The location of the dwelling of an applicant for assistance under this section shall not be a condition of eligibility.

(t) *Appeals.*—(1) *Eligibility determination.* An applicant declared ineligible for temporary housing, an applicant whose application has been cancelled for cause, or an applicant whose application has been refused because of late filing, shall have the right to appeal such a determination within fifteen (15) calendar days following notification of such action. The Regional Director or his/her designee shall consider the appeal within two weeks after receipt of the appeal. The applicant shall receive written notice of the disposition of the

appeal. The decision of the Regional Director or his/her designee is final.

(2) *Denial of request to purchase mobile home or prefabricated dwelling or request for an adjusted sales price.* An occupant who has been notified that his/her request to purchase a mobile home or pre-fabricated dwelling or his/her request for an adjustment to the sales price has been denied shall have the right to appeal such a determination within five (5) business days after receipt of such notice. The Regional Director or his/her designee shall consider the appeal within two weeks after receipt. The applicant shall receive written notice of the disposition of the appeal. The decision of the Regional Director or his/her designee is final.

(3) *Termination.* An occupant who has been notified of his/her termination from temporary housing as described in sub-paragraph (q)(1) of this section shall have the right to appeal the decision within five (5) business days after receipt of such notice. Such appeals shall be made and resolved in accordance with pretermination procedures contained in sub-paragraph (q)(2) of this section.

(u) *Reports.* The Associate Director, Regional Director or the Federal Coordinating Officer may require from field operations, such reports, plans and evaluations as they deem necessary to carry out their responsibilities under the Act and these regulations.

(v) *Federal responsibility.* The Federal financial and operational responsibility for a temporary housing program shall not exceed eighteen months from the date of the declaration of the major disaster, unless this period is extended in writing by the Associate Director, based on his/her determination that such extension is in the public interest, e.g., if neither the State nor any other entity can accept responsibility for the program. The Regional Director may authorize continued use on a non-reimbursable basis of government property, office space, and equipment by a State, other government entity, or voluntary organization after the eighteen month period.

(w) *Non-Federal administration of temporary housing assistance.* The Regional Director shall encourage State and local governments to assume operational and/or financial responsibilities for administering all or part of Temporary Housing Assistance under Section 404 of the Act. A State may request authority to administer assistance in the Governor's Request for a declaration or in a subsequent written request to the Regional Director.

(1) *Evaluation of capability.* State or local government assumption of Temporary Housing Assistance shall be approved by the Regional Director based on an evaluation of the capabilities and commitment of the entity. At a minimum, the evaluation shall include a review of the following:

- (i) Past performance in administration of temporary housing assistance or other similar operations;
- (ii) Management and staff capabilities; and
- (iii) Demonstrated understanding of the tasks to be performed.

(2) *Cooperative agreement.* Assignment of responsibilities shall be made through a cooperative agreement as defined in Section 6 of Public Law 95-224 (41 U.S.C. 505) negotiated between the Regional Director and the Governor for each major disaster or emergency. Specific delegations of authority will be provided by the Regional Director to the Governor or his/her designee. The State or local government shall agree to provide assistance in accordance with this section, all applicable Federal regulations including 44 CFR 9, 44 CFR 13, and any policies and directives provided by the Regional Director.

(3) *Authorized Costs.* All expenditures associated with administering Temporary Housing Assistance are authorized if in compliance with this section and OMB Circular A-87 Revised, Cost Principles for State and Local Governments (42 CFR 45828). Specifically, the following expenses are authorized when applicable:

- (i) *Administrative expenses.*
 - (A) Regular salaries
 - (B) Overtime
 - (C) Travel
 - (D) Communications
 - (E) Space rental
 - (F) Equipment rental
 - (G) Furniture rental
 - (H) Supplies
 - (I) Printing and reproduction
 - (J) Liability insurance premiums
- (ii) *Program costs.*
 - (A) Minimal repairs.
 - (B) Lease and rent reimbursements for temporary housing including transient accommodations and commercial site rental.
 - (C) Mobile home installation.
 - (D) Mobile home private site development.
 - (E) Group Site development, when approved by the Associate Director.
 - (F) Cost of furniture and living kits.
 - (G) Mortgage and rental payments.

All contracts require the review and approval of the Regional Director or his/her designee prior to award, in order to be considered as an authorized expenditure.

(4) *Operations plan.* In accordance with the cooperative agreement, the State or local government shall prepare for approval by the Regional Director or his/her designee an initial plan of operations to include:

- (i) Organization and staffing;
- (ii) Pertinent goals and management objectives;
- (iii) A proposed budget; and
- (iv) An operational narrative which describes methods for orderly tracking and processing of applications, assuring timely delivery of assistance and identification of potential problem areas.

The Regional Director or his/her designee may require additional plans as necessary for subsequent phases of the operation.

(5) *Federal monitoring and oversight.* The Regional Director or his/her designee shall monitor State-administered activities since he/she remains responsible for the overall delivery of temporary housing. This monitoring function may include activities such as attendance at staff meetings or other sessions where policy/procedural issues are being discussed and review of internal memoranda and reports. As a result of these activities, the Regional Director or his/her designee may override any decisions to assure adherence to the Act, regulations, and policies, as well as to assure quality, cost-effectiveness and timely delivery of services. In addition, policy guidance and interpretations to meet specific needs of a disaster shall be provided through the oversight function.

(6) *Technical assistance.* The Regional Director or his/her designee shall provide technical assistance as necessary to support State-administered operations through training, procedural issuances, and by providing experienced personnel who, under the direction of the Regional Director or his/her designee, assist the State or local staff.

(7) *Operational resources.* The Regional Director shall make available for use in State or locally administered operations, Federal stand-by contracts, memoranda of understanding with government and volunteer agencies and Federal property such as household kits and government-owned mobile homes and travel trailers.

(8) *Audits.* The State shall audit each operation in accordance with guidelines and standards provided by the General Accounting Office and OMB Circular A-102, Attachment P. All operations are subject to Federal audit.

Dated: December 30, 1981.

Lee M. Thomas,
Associate Director, State and Local Programs
and Support.

[FR Doc. 82-368 Filed 1-6-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 81-462; RM-3738; RM-3789]

Amendment of the Commission's Rules To Reclassify Coin Operated Electronic Games From Class B to Class A Computing Devices; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: A Notice of Proposed Rulemaking was adopted by the Commission in General Docket 81-462 (which concerns coin-operated electronic games) on July 16, 1981 (September 8, 1981, 46 FR 44793). This Order extends the period for filing comments set out in the NPRM. This action was taken in response to a Joint Motion for reopening of the comment period submitted by coin-operated game manufacturers. They filed the Motion in order to comment on several reports of investigation regarding interference caused by coin-operated games which had recently been placed in the record.

DATES: Comments due January 18, 1982; Reply comments due February 3, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mr. Syd Bradfield, Office of Science and Technology, RF Devices Branch, Washington, D.C. 20554, phone (202) 653-8247.

Order Extending Comment Period

Adopted: December 24, 1981.

Released: December 29, 1981.

By the Chief Scientist.

In the matter of amendment of Part 15, Subpart J to reclassify coin-operated electronic games from Class B to Class A computing devices.

1. The Commission instituted this proceeding by adopting a Notice of Proposed Rule Making on July 16, 1981 (released August 27, 1981, FCC 81-320). This Notice was issued in response to petitions for rulemaking (RM-3738 and

RM-3789) from the coin-operated electronic game industry asking for relief under the computing device regulations in Subpart J of Part 15. The Commission proposed to relax the technical standards on coin-operated electronic games from Class B to the more liberal Class A computing device requirements. The coin-operated electronic game industry asserted, in its petitions and comments to the petitions, that among other things coin-operated electronic games are no longer a source of harmful interference.

2. The NPRM in this proceeding specified that comments and reply comments be filed on October 5, 1981 and October 20, 1981, respectively. For the most part, comments were received from manufacturers of coin-operated electronic games pointing out among other arguments for relief that since 1977 no documented interference has occurred resulting from current generation coin-operated electronic games and that state-of-the-art coin-operated games do not pose a threat to radio communication systems when operated in their intended environments.

3. However, there exists new information concerning recent reports of interference due to emissions from coin-operated electronic games. The FCC Field Operations Bureau has recently investigated and documented six cases of harmful interference to public safety communications and other licensed radio communications services caused by coin-operated electronic games. These interference cases are summarized below:

a. FOB case report 81-W-14 dated September 25, 1980. An amateur radio station received interference on approximately 50.11 MHz. During the subsequent investigation by FOB, coin-operated games located in a neighboring roller skating rink were determined to be the source of interference. The interference problem was evidently corrected by replacing the ground terminals on the game's power line plugs which had been removed.

b. FOB case report 81-W-708 dated April 6, 1981. Interference occurred in Ellwood City, Pennsylvania to the Grove City Bus Co. operating as a licensee in the Land Transportation Radio Service on 43.84 MHz. The interference was continuous and appeared in two areas of town. FOB investigated the interference problem and found that the interference was caused by an Atari Asteroids electronic game used in the Oak Grove Inn and Keystone Bar each located in the part of town where interference occurred. After notification, the offending games were removed from

the Oak Grove Inn and Keystone Bar in order to investigate the problem.

c. FOB Case report 81-W-872 dated May 26, 1981. Interference to the U.S. Border Patrol on 163.675 MHz was generated by a coin-operated computer game located in a corner grocery in Sumas, Washington. The game was removed from service to stop the interference.

d. FOB case report 81-W-1119 dated July 30, 1981. The Newman Grove Police Department in Newman Grove, Nebraska received interference to public radio communications from a video game used in the Hombre Lounge located in the same city. The video game manufacturer changed the game's oscillator clock frequency to move the harmonic signal away from the police frequency to resolve the interference problem.

e. FOB Beaumont, Texas, local case BT-81-4 dated August 28, 1981. Electronic games operating inside an arcade called "The Game Hut" located in a shopping mall in Port Arthur, Texas interfered with a nearby TV shop in the mall. Interference was noted on TV channels 2, 3, 4, 5 and 6.

f. FOB case report 81-W-1196 dated September 2, 1981. Radio communications of the Corning, New York Ambulance Service and Fire Department received continuous interference on 46.4 MHz caused by a video game operated at an establishment called "McHales Tavern". The proprietor of the tavern disconnected the video game to correct the interference.

4. Since the Commission is considering relaxing the standards governing coin-operated games, these interference cases have a direct bearing on this proceeding. Accordingly, the above interference case reports have been placed in the record of Docket 81-462.

5. On December 11, 1981, Atari, Inc., Bally Manufacturing Company, Sega Enterprises and Stern Electronics, Inc. filed a "Joint Motion for the Reopening of Comment Period" in light of the six reports of interference recently placed in the record. They request that the Commission serve the public interest by providing an opportunity for all parties to comment on the full record before the Commission which now includes the interference reports involving coin-operated electronic games.

6. Because of the importance of these interference cases to this proceeding and in order to give all parties an opportunity to respond to this new information, an extension of time to January 18, 1982 for filing Comments and

to February 3, 1982 for filing Reply Comments is hereby granted pursuant to the authority delegated to the Chief Scientist in § 0.241(d) of the FCC Rules.

S. J. Lukasik,
Chief, Scientist.

[FR Doc. 82-396 Filed 1-6-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-737; RM-3882]

FM Broadcast Stations in Montevideo, Olivia, and Ortonville, Minnesota; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning the proposed assignment of an FM channel to Montevideo, Olivia and Ortonville, Minnesota. C.G.N. Corporation states that additional time is needed to submit the requested engineering showings.

DATES: Comments must be filed on or before January 4 and reply comments on or before January 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Comments and Reply Comments

Adopted: December 24, 1981.

Released: December 29, 1981.

By the Acting Chief, Policy and Rules Division.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Montevideo, Olivia and Ortonville, Minnesota); BC Docket No. 81-737 RM-3882

1. On October 19, 1981, the Commission adopted a *Notice of Proposed Rule Making*, 46 FR 53471, published October 29, 1981, in the above-captioned proceeding. The dates for filing comments and reply comments were December 21, 1981, and January 11, 1982, respectively.

2. On December 14, 1981, counsel for C.G.N. Corporation, the original petitioner in the proceeding, filed a request to extend the time for filing comments to January 4, 1982. It states that an engineering study requested in

the Notice has not been completed due to the press of other prior commitments.

3. We find that the extension request should be granted to permit the filing of information which is needed to develop a more complete record in this proceeding.

4. Accordingly, it is ordered, That the dates for filing comments and reply comments in BC Docket No. 81-737 are extended to and including January 4 and January 19, 1982, respectively.

5. This action is taken pursuant to authority found in 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.
Martin Blumenthal,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

[FR Doc. 82-393 Filed 1-6-82; 8:45 am]
BILLING CODE 6712-01-M

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Notices

Federal Register

Vol. 47, No. 4

Thursday, January 7, 1982

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Hickory Hill Public Housing Project; Cancelled Meeting

Notice is hereby given in accordance with § 800.6(d)(3) of the regulations of the Advisory Council on Historic Preservation, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the panel meeting scheduled for January 8, 1982, to consider the proposed Hickory Hill Public Housing Project, Petersburg, Virginia, has been cancelled.

Notice of the January meeting was published on Monday, December 28, 1981, 46 FR 62672.

For further information contact the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005, (202-254-3967).

Dated: January 4, 1982.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 82-377 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Boll Weevil Program; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting to discuss area boll weevil program.

SUMMARY: Animal and Plant Health Inspection Service (APHIS) announces a meeting to allow public discussion of the effectiveness of the present Boll Weevil Eradication program and seeks

suggestions concerning ways to make the program more responsive to public needs.

DATE: January 15, 1981, 10 a.m. to 5:30 p.m.

ADDRESS: Auditorium, County Office Building, Highway 301 South, Fayetteville, NC.

FOR FURTHER INFORMATION CONTACT: Dr. James LaForest, Animal and Plant Health Inspection Service, 2133 South Building, 12th and Independence, Washington, DC, 20250, Phone: (202) 447-9230.

SUPPLEMENTARY INFORMATION: This meeting is intended by APHIS to encourage public discussion of the area Boll Weevil program in North Carolina. The discussion should assess the program's effectiveness, seek suggestions on ways and means to make the program more responsive, and discuss the future of the program. The meeting will begin with an overview of the APHIS program and will then be opened to formal presentations by interested persons who may respond to this notice. APHIS will schedule these presentations on a first-come, first-served basis. Following formal presentations, the meeting will be open for informal discussions. Any person who wishes to make a formal presentation at the meeting should notify the contact person no later than January 14, 1982, and, by January 14, 1982, the person should submit to the contact person the presenter's name, address, organizational affiliation, and a summary of the planned presentation. The meeting will be open to the public and seating will be available on a first-come, first-served basis. To the extent that time permits, interested persons who did not request an opportunity to make a formal presentation will be given an opportunity to make an oral presentation at the conclusion of the meeting.

Done at Washington, DC, this 5th day of January, 1982.

James O. Lee Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc 82-510 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Hiawatha National Forest Land and Resource Management Plan State of Michigan; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service Department of Agriculture will prepare an Environmental Impact Statement on the proposed Land and Resource Management Plan for the Hiawatha National Forest in Michigan.

The plan is being prepared in accordance with requirements of the Secretary's regulations developed pursuant to the National Forest Management Act of 1976. It will propose management direction for the National Forest System lands within the proclamation boundaries of the Hiawatha National Forest.

The planning process began with the identification of public issues, management concerns, resource use, and development opportunities. Public participation has been an integral part of the planning process. Response forms, meetings, and other public involvement tools were used to identify and verify issues early in the planning process. Major new issues will be considered as they are identified during the planning process.

Planning criteria will be developed and data will be collected and analyzed to determine how the identified issues and concerns can best be resolved. An assessment of the capability of the land produce resource outputs and a determination of the public's future demands for these outputs will be made. Methods for resolving the identified public issues will be developed from this information and will be used to formulate alternatives.

Alternatives will display a range of resource outputs at several expenditure levels. Each alternative will represent a cost-effective combination of management practices which can best meet the objective for the alternative. In addition, each identified major public issue will be addressed, each alternative will specify methods to maintain or enhance renewable resources, and a no change alternative will be included.

A preferred alternative will be selected by ranking the alternatives according to their physical, biological, social and economic effects. It will include the best combination of resource uses on the forest and will also provide for a continuous monitoring and evaluation process.

A Draft Environmental Impact Statement (DEIS) and Draft Plan will be released around April 1983. The Final Environmental Impact Statement (FEIS) and Land and Resource Management Plan will be released approximately six months later.

Steve Yurich, Regional Forester of the Eastern Region, is responsible for approval of the Forest Plan. Roy E. Droege, Forest Supervisor of the Hiawatha National Forest, is the responsible official in charge of preparation and implementation of the plan.

Further information about the planning process can be obtained by calling Robert McHugh, Planning Staff Officer on the Hiawatha National Forest at 906-786-4062. Comments on this Notice of Intent should be sent to: Forest Supervisor, Hiawatha National Forest, 2727 North Lincoln Road, Escanaba, MI 49829.

James H. Freeman,

Director of Planning, Programming and Budgeting.

December 29, 1981.

[FR Doc. 82-367 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-11-M

Homestake Phase II, Transmountain Water Diversion; White River National Forest, Eagle County, Colorado; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Impact Statement on development of the proposed Homestake Phase II Transmountain Water Diversion Project. The cities of Aurora and Colorado Springs, Colorado, in their application for an easement, propose to construct diversion structures in Cross Creek and Fall Creek and divert from 26,000 to 41,000 acre feet of water per year. The proposed project is on both public and private lands.

The area proposed for development is located about ten miles southwest of Minturn, Colorado, and is within the Holy Cross Wilderness, White River National Forest. The Colorado Wilderness Act of 1980, Public Law 96-560 directed that the creation of the Holy Cross Wilderness would not affect the Homestake Water Development

Project. Therefore, the consequences of the project on the wilderness values will not be considered in the environmental analysis. The EIS will, however, assess and disclose the impacts of the project on all other appropriate National Forest System values inherent in the project area, as well as off-site social and economic impacts.

Preparation of an Environmental Impact Statement is indicated because of the probable significance of the social, physical, and biological changes which were identified during the initial scoping meetings held in connection with the environmental analysis. Information received during meetings which were held in Minturn, Eagle, Red Cliff, Vail, Leadville, and Denver, Colorado, will be used in the EIS. Some of the concerns identified in the scoping process are social and economic impacts of local towns; impacts to Colorado Springs and Aurora with and without water projects; impact of the project on water quality and quantity; effects on endangered species; the need for a State-wide water plan; and effects on downstream water users.

Additional public scoping meetings will be held with the town of Red Cliff on February 1, 1982, and in Leadville with the date to be announced. Comments must be received by the Forest Service by February 15, 1982, at the address below.

The alternative of no action and of permitting development as proposed (tunnel system-gravity flow) will be evaluated. Additional alternatives considered are other tunnel and/or pipelines with gravity or pumping systems, reservoir sites with pipelines and pumping, water conservation, alternate water sources, growth management, and water trading.

The Draft Environmental Impact Statement is scheduled for completion in May 1982. There will be a 60-day comment period. Completion of the Final Environmental Impact Statement is scheduled in September 1982. If the decision is to proceed with development, easements will be issued, although construction would not start before the summer of 1983.

Craig W. Rupp, Regional Forester of the Rocky Mountain Region, is the responsible official. Victor K. Weyers, Staff Officer on the White River National Forest, will be the Project Coordinator for the Environmental Impact Statement.

Questions or comments can be sent to Victor K. Weyers, Project Coordinator,

White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81602 (phone 303-945-2521).

Craig W. Rupp,

Regional Forester.

December 30, 1981.

[FR Doc. 82-366 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Elm Creek (1250) Watershed, Texas

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of record of decision.

FOR FURTHER INFORMATION CONTACT:

George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76703, telephone: 817-774-1214.

Notice

George C. Marks, responsible Federal official for projects administered under the provisions of Public Law 83-566, 16 U.S.C. 1001-1008, in the State of Texas, is hereby providing notification that a record of decision to proceed with the installation of the Elm Creek (1250) watershed project is available. Single copies of this record of decision may be obtained from George C. Marks at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 28, 1981.

George C. Marks,

State Conservationist.

[FR Doc. 82-357 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 40136]

Arista International Airlines Fitness Proceeding; Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to Judge Rodriguez.

Dated at Washington, D.C., December 29, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 82-375 Filed 1-6-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40322; Order 81-12-123]

Braniff Airways, Inc.; Proposed U.S.-Latin America Fare Increases; Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of December, 1981.

By tariff revisions filed for effectiveness December 15, 1981, Braniff Airways, Inc. (Braniff), proposes 5 to 10 percent increases in its fares from the United States to Latin America.¹ Under the proposal, normal economy fare (NEF) levels in most of the affected markets would be set about 9 to 15 percent above the current statutory ceilings established under the International Air Transportation Competition Act; only U.S.-Venezuela NEF's would remain below the ceilings.²

In justification of the proposal, Braniff states that its South American services showed an operating income of only \$1.4 million and a pretax loss of \$4.7 million for the twelve months ended June 30, 1981; that these disappointing results are typical of the carrier's recent experience, despite Braniff's costs being consistently lower than those of Pan American World Airways, Inc. (Pan American), the other U.S. carrier serving South America;³ that revenue improvements have failed to keep pace with cost increases because of the guaranteed fare rule⁴ and, primarily, the

¹ Braniff provides direct service to/from Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Panama, Paraguay, Peru and Venezuela. The proposal does not affect fares in U.S.-Mexico markets, which Braniff also serves.

² Appendix A outlines the increases' effect in 21 sample markets. The ceiling represents the upper limit of a statutory "zone of reasonableness" within which the Board may generally not suspend a fare on grounds of unreasonableness. The ceiling is formed by the Standard Foreign Fare Level (SFFL)—i.e., NEF's in effect on or after October 1, 1979, adjusted every two months for cost changes—plus 5 percent upward fare flexibility. While the Board may permit additional flexibility (or permit fares above the ceilings) as a matter of regulatory discretion, we have not done so in the case of U.S.-Latin America markets. Braniff's 5 to 10 percent increases would establish NEF's at levels as much as 15 percent above the ceilings because of a recent downward adjustment in the SFFL cost adjustment factor for Latin America. See Order 81-9-120, September 18, 1981.

³ Braniff cites, for instance, its own operating expense of 13.39 cents per revenue passenger-mile (RPM) for the year ended June 30, 1981, against Pan American's expense of 15.04 cents per RPM. We note, however, that Braniff's figures present total operating expenses and so distort the carriers' relative costs because of Pan American's considerably more extensive cargo operations. Scheduled passenger operating expense, using the Board's SFFL cost methodology, was 12.46 cents per RPM, or 7.97 cents per available seat-mile (ASM), for Braniff, and 11.92 cents per RPM, or 7.02 cents per ASM, for Pan American.

⁴ The guaranteed fare rule assures passengers who purchase their tickets at pre-increase prices

unavoidable "regulatory lag" involved in obtaining approval for fare increases from all governments concerned; that since institution of the SFFL, Braniff's return on investment (4.0 percent for the year ended June 30, 1981) has been far below the 17 percent level found appropriate in the *Standard Foreign Fare Level Investigation*⁵ and even below the 12 percent level "which guided the Board's ratemaking judgments in less inflationary periods"; and that maintaining fares at the statutory ceilings is not sufficient to allow Braniff to regain profitability.⁶

We have decided to allow Braniff to implement its proposal. We will, however, investigate the proposed NEF levels, except those to Chile, Panama and Venezuela.

Our decision follows careful consideration of Braniff's proposal and justification as well as a close review of the Latin American operating results of both Braniff and Pan American over the past three years. Braniff is suffering serious financial setbacks in Latin America, and we therefore will allow the proposed increases to take effect in order to allow Braniff some measure of temporary relief. In addition, the scope of our investigation will exclude Braniff's NEF's to Chile, Panama and Venezuela. U.S.-Chile/Panama markets are now sufficiently competitive for us to increase reliance on market forces to establish prices, and Braniff's proposed NEF's to Venezuela are within the "zone of reasonableness," below the pertinent SFFL ceilings.

Our review suggests, however, that the carrier's present straits are not so much the result of inadequate fare levels as cost increases which have outstripped industry averages. Because Braniff's Latin American route system mostly involves capacity restricted, limited designation markets, with strong monopoly characteristics, we are obligated to determine whether these above average cost increases may properly be flowed through the fare structure under pertinent statutory mandates.

Latin American yields in scheduled passenger service appear to be the highest of all U.S. international markets. For the year ended June 30, 1981, Braniff and Pan American had yields of 12.10 and 12.55 cents per RPM, respectively.

that they will not be subject to additional charges reflecting higher prices in effect at the time of travel.

⁵ Dockets 37730 and 37744. See Order 80-8-66, August 12, 1980.

⁶ As an alternative to approval of its proposal, Braniff urges the Board to extend upward flexibility in U.S.-South America markets from 5 percent to 15 percent, as is not allowed in most U.S.-Europe markets.

In comparison, Pan American and Trans World Airlines, Inc. (TWA), had yields of 9.54 and 9.23 cents per RPM, respectively, in transatlantic markets, and Pan American and Northwest Airlines, Inc. (Northwest), had yields of 9.32 and 7.97 cents per RPM, respectively, in transpacific markets.⁷ Furthermore, the above Latin American yields represented improvements of about 35 percent (Braniff) and 34 percent (Pan American) over the year ended June 30, 1978, and about 27 percent (Braniff) and 24 percent (Pan American) over the year ended March 31, 1980—the midpoint of which, October 1, 1979, marks the SFFL base date. Thus, Braniff's yield for the most recent period was just 3.6 percent below (and, over the last fifteen months, improving more rapidly than) that of Pan American. Yet Braniff experienced a \$4.6 million operating loss while Pan American enjoyed a \$36.1 million operating profit. It is apparent that Braniff's costs are, contrary to its assertion, higher than Pan American's.⁸

This has not always been true. For the year ended June 30, 1978, for example, Braniff's scheduled passenger expense was 4.43 cents per ASM while Pan American's was 5.15 cents per ASM. In the three years since, however, Braniff's unit cost has increased 80 percent to 7.97 cents per ASM while Pan American's has risen just 36 percent to 7.02 cents per ASM.⁹ Since October 1, 1979 (when Braniff's costs had already climbed 3.7 percent beyond Pan American's), the increases have been 29 and 18 percent, respectively. Braniff's scheduled passenger expense per ASM now stands 13.5 percent above Pan American's.

Appendix B charts, since the SFFL base date, the two carriers' changes in scheduled passenger yields and costs against the change in average passenger cost for all U.S. carriers serving Latin America (including Central America, the Caribbean and Mexico) as measured by the Board's SFFL cost adjustment factors Braniff's yields have outpaced Pan American's yields and costs as well as average Latin American costs; they

⁷ Average stage lengths were 1177 miles (Braniff) and 1621 miles (Pan American) in Latin American markets, 1353 miles (Pan American) and 2758 miles (TWA) in transatlantic markets, and 3518 miles (Pan American) and 2664 miles (Northwest) in transpacific markets. At these stage lengths, yields do not significantly decline with distance.

⁸ See fn. 3, *supra*.

⁹ The carriers have had very similar fuel cost experiences. Over the three years, Braniff's fuel expense per available ton-mile (ATM) was up 108 percent; Pan American's was up 111 percent. The respective increases in nonfuel costs per ATM, however, have been 54 and 22 percent.

have failed to keep pace only with Braniff's own costs.

The Board's SFFL mechanism, by statute, reflects average industry cost increases, thus embodying a ratemaking philosophy which balances the need of carriers to recoup expenses with protection of the traveling public against unduly high prices reflecting the high costs of any particular carrier. It provides incentives for efficiency by allowing lower cost carriers to reap the advantages of their relative productivity and spurring improvements in less efficient operations. Our analysis indicates that Braniff's low profitability in this entity may be the result of recent cost trends not shared by the industry at large. Under these circumstances, we believe it necessary to institute an investigation to determine the reasonableness of Braniff's NEF's.

We do not intend at this time to prescribe procedures to be followed in this investigation. While the ultimate issue—whether Braniff's current tariffs are just and reasonable—is clear, we do not yet have sufficient information to determine what future matters, if any, will be in issue. At this time, we direct our staff to contact the carrier and report to us expeditiously with respect to the concerns set forth above. Upon analysis of the staff's preliminary findings, we will be in position to decide whether the case should proceed along evidentiary lines or can be resolved on the record compiled to date.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the attached Appendix C and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public interest, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices; and

2. We shall file copies of this order in the aforesaid tariff and serve them on Braniff Airways, Inc.

We shall publish this order in the Federal Register.

Note.—Appendices A–C filed as part of the original.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-376 Filed 1-6-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Survey of Retail Sales and Inventories; Notice of Determination

In accordance with title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published November 2, 1981, (46 FR 54395) I have determined that certain 1981 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies, and that these data are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, data covering 1980 and 1981 year-end inventories, 1981 accounts receivable balances, and 1980 and 1981 annual sales. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of firms operating retail establishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from a sample of stores with probability of selections based on their sales size.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available on written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: December 31, 1981.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-329 Filed 1-6-82; 8:45 am]

BILLING CODE 3510-07-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing a Procedure To Obtain Waivers From the Correct Category Provision of the Visa Requirements for Apparel Entireties

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: For a limited period, importers may apply for an expedited automatic waiver of the correct category provision of visa requirements for certain shipments of apparel entireties,

regardless of the date of export, to prevent denial of entry for consumption into the United States.

(For purposes of the textile program, the term "entireties" is used to describe sets of apparel, such as jackets and skirts, or sweaters and skirts, among others, which are customarily sold together and intended to be worn together.)

SUMMARY: Beginning on January 1, 1982, U.S. Customs will deny entry to some parts of certain apparel sets because the category of the items visaed is not correct. This results from the lack of 7-digit TSUSA numbers in the new tariff classification for particular apparel product categories. The Committee for the Implementation of Textiles Agreements (CITA) automatically will issue waivers for those items which are incorrectly visaed as a result of these circumstances. CITA expects that new 7-digit TSUSA numbers to provide for proper category classification of the parts of these sets will be in place on February 1, 1982.

EFFECTIVE DATE: On January 1, 1982 and until further notice, the Committee for the Implementation of Textile Agreements automatically will issue waivers from the correct category and unit of measure provisions of visa requirements for apparel entireties of cotton, wool, and man-made fibers, regardless of the date of export, which have been denied entry because there is no 7-digit tariff schedule number corresponding by name to all components of the set. A facsimile of the format for a request for a waiver follows this notice. The Office of Textiles and Apparel will expedite the processing of these waivers and has established a telephone hot line so that importers who need expedited service can telephone their requests. Importers may also mail a single copy of a request for waivers to the Office of Textiles and Apparel, International Agreements and Monitoring Division, Room 2814, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, Attention: Waivers Entireties. Documents authorizing the release of the merchandise will be transmitted, as appropriate, to the U.S. Customs Service. The importer or broker can arrange to have these documents hand carried or have an express messenger service transmit the waiver to the port. Shipments waived under this procedure will be charged to the appropriate category under the applicable bilateral restraint agreement.

FOR FURTHER INFORMATION CONTACT:

Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: As a result of the implementation on January 1, 1982 of the new numbers in Schedule 3, part 6 (which cover certain apparel items and which were added to the Tariff Schedules of the United States, Annotated (1982) as revised by the Tokyo Round) and U.S. Customs Court decisions on the tariff treatment of entireties, U.S. Customs may deny entry to some apparel shipments. U.S. Customs Court decisions require that all components of an entirety be classified under the same 5-digit TSUSA number. The appropriate 5-digit number is assigned to a shipment for duty purposes based on the component with the highest value in the set. The chief value component of the set will be classified in the correct 7-digit TSUSA number and resulting category and will be allowed to enter. The other components of the set may be assigned to 7-digit TSUSA numbers which do not correspond to the correct categories for these items. In these cases, U.S. Customs would deny entry to these items if they were exported from a country with a visa system calling for the correct category.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Telephone Request for Visa Waiver Entirety

Country of origin: _____
 Port of entry: _____
 Import specialist: _____
 Team No: _____
 Address: _____
 Name and address of importer: _____
 Name and telephone number of customs broker: _____
 Description of merchandise denied entry:
 Component(s) denied entry: _____
 Component of chief value: _____
 Category and TSUSA as visaed:
 Component(s) denied entry: _____
 Component of chief value: _____
 Category and TSUSA as required by customs:
 Component(s) denied entry: _____
 Component of chief value: _____
 Quantity of each component: _____
 Entry number or bill of lading number: _____
 Carrier: _____
 Date of export: _____
 Date of request: _____

[FR Doc. 82-539 Filed 1-6-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE**Department of the Army****Army Science Board; Closed Meeting**

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 the Committee: Army Science Board (ASB)

Dates of Meeting: January 28, 1982; January 29, 1982.

Times: 0830-1700 hours (Closed)—January 28, 1982; 0830-1500 hours (Closed)—January 29, 1982.

Place: Pentagon Room 2E271—January 28, 1982; Pentagon Room 3E467—January 29, 1982.

Proposed Agenda: The Army Science Board Group conducting a Summer Study on Science and Engineering Personnel will meet to present and receive briefings and hold discussions. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Acting Administrative Officer, Maria P. Galvan, may be contacted for further information at (202) 697-9703 or 695-3039.

Maria P. Galvan,

Acting Administrative Officer.

[FR Doc. 82-390 Filed 1-6-82; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army**Intent to Prepare a Draft Environmental Impact Statement (DEIS) Associated With a Segment of the Kansas-Osage Study Addressing the Feasibility of Constructing a Fish Hatchery in Kansas**

AGENCY: Kansas City District, Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. The proposed Federal Action is to study the feasibility of constructing a fish hatchery downstream from Milford Lake, Kansas.

2. Reasonable alternatives include no action, construction of the hatchery, and acquisition of fish from private sources.

3. Scoping Process:

a. Scoping was initiated with a state-Federal agency meeting held on November 24, 1981. Further scoping will include:

(1) Meetings with affected interest groups; and

(2) Statewide distribution of a fact sheet discussing the action and the intent to prepare a DEIS. Comments with regard to the scope of the project will be solicited in the fact sheet. If sufficient comments are received, a public meeting may be held.

b. The single issue identified to date concerns the economic impact of a hatchery on the commercial fish producers in Kansas, if a hatchery were recommended.

4. The DEIS is scheduled to be available to the public in the spring of 1982.

ADDRESS: Questions concerning the proposed action and DEIS should be directed to Mr. Michael Bronoski, Basin Planning Branch, Kansas City District Corps of Engineers, 700 Federal Building, Kansas City, Missouri 64106. (816) 374-5064 or FTS 758-5063.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 82-389 Filed 1-6-82; 8:45 am]

BILLING CODE 3710-KN-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Ararat River Flood Control Project; Surry County, N.C.

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

1. Summary: The proposed project consists of a combination of widening and diking the Ararat River through part of the town of Mt. Airy, North Carolina, a distance of approximately 8,000 feet. The material removed from the riverbank will be used in the construction of the dikes.

2. Alternatives to the proposed project include variations in channel dimensions, channel length, construction techniques, and an upstream dam. Also being considered is the no-action alternative.

3. a. Various Federal, State, and local agencies have all provided input into the plan formulation process. All additional agencies, organizations, and interested parties which have not been previously notified are invited to comment at this time.

b. The primary identified problem is the need for flood control for the Town of Mount Airy.

c. The U.S. Fish and Wildlife Service will furnish input into the plan formulation in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

d. The 404 Public Notice and the 404(b)(1) Evaluation will be circulated to the public. A Section 401 Water Quality Certificate will be obtained from the State prior to project construction.

4. A public meeting will be held in Mt. Airy, North Carolina, in mid-May 1982.

5. Estimated date that DEIS will be available to the public is May of 1982.

ADDRESS: John A. Baden, Environmental Analysis Section, U.S. Army Engineer District, Wilmington, PO Box 1890, Wilmington, NC 28402, Telephone: (919) 343-4745; commercial: FTS 671-4754.

Robert K. Hughes,

Colonel, Corps of Engineer, District Engineer.

[FR Doc. 82-340 Filed 1-16-82; 8:45 am]

BILLING CODE 3710-GN-M

Department of the Secretary

Armed Forces Epidemiological Board; Partially Closed 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: Armed Forces Epidemiological Board

Date of Meeting: February 4-5, 1982

Time: 0900-1700 4 February: 0830-1400 5 February.

Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.

Proposed Agenda: The proposed agenda will include classified briefings concerning the Rapid Deployment Force and chemical warfare defense, AFEB subcommittee progress reports, discussions on use of hepatitis B vaccine in the Armed Forces and reports from the Services' Preventive Medicine Officers.

2. The meeting will be partially closed to the public because of classified briefings and discussions concerning the Rapid Deployment Force and chemical warfare defense. The closed portion of the meeting will be from 0900-1200 hours, February 4, 1982. This portion will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

3. All other portions of the 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 contact the Executive Secretary, DASG-AFEB, Room 2D455 Pentagon, Washington, D.C. 20310 (Telephone 695-9115).

Dated: December 31, 1981.

Charles W. Halverson,

Capt., MSC, USN, Executive Secretary.

[FR Doc. 82-391 Filed 1-6-82; 8:45 am]

BILLING CODE 3710-08-M

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: Armed Forces Epidemiological Board ad hoc subcommittee on epidemiological methods in clinical health care delivery systems.

Date of Meeting: February 3, 1982.

Time: 0900-1500.

Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.

Proposed Agenda: Epidemiological methods in clinical health care delivery systems.

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 2D455 Pentagon, Washington, DC 20310. (Telephone 695-9115).

Dated: December 31, 1981.

Charles W. Halverson,

Capt., MSC, USN, Executive Secretary.

[FR Doc. 82-392 Filed 1-6-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Advisory Panel on Financing Elementary and Secondary Education

AGENCY: Advisory Panel on Financing Elementary and Secondary Education, Education.

ACTION: Cancellation of Hearing and Meeting. *Federal Register* Doc. 81-36229 published Friday, December 18, 1981 at page 61694 announced a hearing and meeting to be held on January 18 and 19, 1982 at the J. W. McCormack Post Office and Courthouse in Boston, Massachusetts. This document cancels these events.

Signed at Washington, D.C. on January 4, 1982.

Will S. Myers,

Executive Director.

[FR Doc. 82-410 Filed 1-6-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Guam Oil and Refining Company, Inc.; Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Guam Oil and Refining Company, Inc. and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by February 8, 1982.

ADDRESS: Send comments to: GORCO Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Ave., N.W., Mail Stop 7117, Room 6532, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Stanley S. Mills, Program Manager for Entitlements, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20461, (202) 633-3614. Copies of the Consent Order may be obtained free of charge by written request to, or in person, at this address and the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E-190.

SUPPLEMENTARY INFORMATION: On December 18, 1981, the Office of Special Counsel of the ERA executed a proposed Consent Order with Guam Oil and Refining Company, Inc. of Dallas, Texas. Under 10 CFR 205.199(b), a proposed Consent Order which involves a sum of \$500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the *Federal Register* providing an opportunity for comment concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order.

The Consent Order

Guam Oil and Refining Company, Inc. (GORCO), with its home office located in Dallas, Texas, is a firm engaged in the refining of crude oil and sale of refined petroleum products, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with GORCO's petroleum activities involving covered products and including

obligations incurred under the Domestic Crude Oil Allocation Program ("Entitlements Program") during the period August 11, 1973 through January 28, 1981 (the "settlement period"), the Office of Special Counsel of the ERA, and GORCO entered into a Consent Order, the significant terms of which are as follows:

A. The DOE alleged that, during the settlement period, GORCO sold refined petroleum products at prices in excess of the applicable ceiling or maximum lawful selling prices and improperly reported crude oil receipts and crude oil runs-to-stills on Forms P-102, P-103, P-102-N-0 and ERA-49, in violation of the Regulations.

B. Within ten (10) days of the effective date of the Consent Order, GORCO will remit to DOE the sum of \$2,500,000, which includes interest, for deposit in the U.S. Treasury.

C. Execution of the Consent Order constitutes neither an admission by GORCO nor a finding by DOE that GORCO has violated any Regulations.

D. The provisions of 10 CFR 205.199], including those regarding the publication of this notice, are applicable to the Consent Order.

Submission of Written Comments

Interested persons are invited to submit written comments on the terms and conditions of this Consent Order to the address shown above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on GORCO Consent Order." The ERA will consider all comments it receives by 5:00 p.m., local time on the thirtieth day following publication of this notice. Any information or data considered confidential by the person submitting it must be identified and submitted in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 28th day of December 1981.

Avrom Landesman,

Deputy Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-373 Filed 1-6-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 81-CERT-026]

Consolidated Edison Company of New York, Inc.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On November 2, 1981 Consolidated Edison Company of New York, Inc. (Con Edison), 4 Irving Place, New York, N.Y. 10003 filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an

application for certification of an eligible use of approximately 21.0 billion cubic feet of natural gas per year to displace approximately 2,989,000 barrels of residual fuel oil (0.3 percent sulfur), approximately 141,000 barrels of No. 2 fuel oil (0.2 percent sulfur), and approximately 386,000 barrels of kerosene (0.05 percent sulfur) per year at six of its steam and electric generating stations located in New York City: Astoria in Queens; East River in Manhattan; Narrows in Brooklyn; Ravenswood in Queens; Waterside in Manhattan; and East 60th Street in Manhattan. The eligible seller of the natural gas is Equitable Gas Company, 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219. The gas will be transported by Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 2511, Houston, Texas 77001, and Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77002. Notice of that application was published in the *Federal Register* (46 FR 60492, December 12, 1981) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication.

Con Edison has in effect a certification by the ERA, effective April 13, 1981 (Docket No. 81-CERT-005), which authorizes purchases of approximately 62 billion cubic feet of natural gas per year from Consolidated Gas Supply Corporation and National Fuel Gas Distribution Corporation for use at the electric generating stations named in this certification. It also has a certificate issued by ERA on December 3, 1981 (Docket No. 81-CERT-025) for certification of 2.20 billion cubic feet of natural gas per year from the New York State Electric and Gas Corporation for use at these same steam and electric generating stations.

The ERA has carefully reviewed Con Edison's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Con Edison's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification are available for public inspection at the ERA, Natural Gas Docket Room, Room

6013, RG-13, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., December 24, 1981.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-346 Filed 1-6-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Conservation Panel; Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Conservation Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770).

Date and time: January 22, 1982, 9 a.m. to 5 p.m.

Place: Department of Energy, Forrestal Building, Room 6E-069, 1000 Independence Avenue, SW, Washington, DC 29585.

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW, Washington, DC 29585, Telephone: 202/252-8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long range guidance in these areas to the Department.

Tentative agenda:

Discussion of Programs in Conservation Sectors

Discussion of outline of report

Discussion of data needs for report

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 31, 1981.

James S. Kane,

Deputy Director, Office of Energy Research.

[FR Doc. 82-347 Filed 1-6-82; 8:45 am]

BILLING CODE 6450-01-M

Multiprogram Lab Panel; Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Multiprogram Lab Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770).

Date and time: January 18, 1982, 9 a.m. to 5 p.m.

Place: Department of Energy, Forrestal Building, Room 4A-110, 1000 Independence Avenue SW., Washington, DC 20585.

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/252-8933

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

- Discussion of ERAB Report on Federal Energy R&D Priorities
- Discussion of energy R&D and legislation relevant to laboratories
- Discussion of draft interim report.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 31, 1981.

James S. Kane,

Deputy Director, Office of Energy Research.

[FR Doc. 82-338 Filed 1-6-82; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

National Petroleum Council Advisory Committee; Renewal

This notice is published in accordance with the provisions of section 7 of the Office of Management and Budget Circular A-63, as amended. Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the National Petroleum Council Advisory Committee has been renewed for a 2-year period ending on December 31, 1983.

The renewal of the National Petroleum Council has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91), OMB Circular No. A-63 (Revised), and other directives and instructions issued in implementation of those acts.

Further information regarding this Advisory Committee may be obtained from the Department of Energy Advisory Committee Management Office (202-252-5187).

Issued at Washington, D.C. on January 4, 1982.

James B. Edwards,
Secretary of Energy.

[FR Doc. 82-412 Filed 1-6-82; 8:45 am]

BILLING CODE 6450-01-M

Uranium Enrichment and Assessment; Proposed Pricing Policy Change

AGENCY: Department of Energy.

ACTION: Proposed pricing policy change.

SUMMARY: The Department of Energy (DOE) seeks public comment on a proposed change to its pricing policy for sale of uranium depleted in the isotope U-235 (tails).

DATE: Comments must be received on or before February 8, 1982.

ADDRESSES: Comments may be mailed to: U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830, ATTN: Clark Huffman.

FOR FURTHER INFORMATION CONTACT:

Mr. Clark Huffman, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830, (615) 576-0627.

Mr. Lawrence Leiken, Office of General Counsel, U.S. Department of Energy, Room 6B-256, 1000 Independence Avenue, S.W., Washington, DC. 20585, (202) 252-6975.

Mr. Eugene Schmitt, Office of Uranium Enrichment and Assessment, U.S. Department of Energy, Room A-268, Washington, DC 20245, (301) 353-5841.

SUPPLEMENTARY INFORMATION: Under present policy (Federal Register Notice 42 FR 51635, September 29, 1977) the price for uranium depleted in U-235 (tails) is tied to the Standard Table of Enriching Services with a minimum charge of \$2.50 per kilogram. Therefore, the selling price is currently related solely to the use of tails as a feed material to U.S. enrichment plants, without regard to its value for other uses. Because of this rigid pricing formula, DOE has little flexibility to sell the material for alternative uses. Potential uses for which there is only a very limited market at this time include nuclear shielding, fertile material in breeder reactor system, ballast and as a substitute for heavy metals such as lead.

With a more flexible pricing policy DOE could reduce inventory maintenance costs, maximize revenues to the U.S. Treasury and test the market for increased sales potential. Prices would be established for each transaction, based on the market value of the material at the time of sale or on a negotiated value if market value cannot reasonably be determined. A decision to adopt this pricing policy is not expected to have significant impact on current budget costs or revenues, but will provide the ability to consummate sales as opportunities arise.

In accordance with section 501(c)(1) of the Department of Energy Organization Act, DOE has determined that these regulations present no substantial issue of fact or law, and are unlikely to have a substantial impact on the economy or large numbers of individuals or businesses. Accordingly, no public hearing is required.

Since this regulation clearly will not have a significant effect on the environment, DOE has determined that C.E.Q. Regulations (40 CFR 1501) do not require an environmental impact statement or an environmental assessment.

DOE has determined that initial and final regulatory flexibility analyses required by sections 603 and 604 of the Regulatory Flexibility Act need not be prepared for these regulations since they would not exert a significant economic impact on a substantial number of small entities.

DOE has determined that these regulations are not "major rules" as defined in section 1(b) of Executive Order 12291 because they are not likely to result in an annual effect on the economy of \$100 million or more and would not result in a major increase in costs for individual industries.

In consideration of the foregoing, DOE proposes to amend the existing pricing policy for the sale of depleted uranium as follows.

DEPARTMENT OF ENERGY

Uranium Hexafluoride

Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specifications and Packaging: Revisions.

The Department of Energy (DOE) hereby announces revisions to the notice entitled, "Uranium Hexafluoride: Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specification and Packaging," as published in the *Federal Register* on November 29, 1967, 32 FR 16289, as amended in 34 FR 2626, February 26, 1969; 34 FR 14039, September 4, 1969; 35 FR 13457, August 25, 1971; 36 FR 4563, March 9, 1971; 38 FR 11877, June 22, 1971; 38 FR 4432, February 14, 1973; 38 FR 13593, May 23, 1973; 38 FR 21518, August 9, 1973; 38 FR 22908, August 27, 1973; 38 FR 27962, October 10, 1973; 39 FR 22182, June 20, 1974; 40 FR 1117, January 16, 1975; 40 FR 17070, April 16, 1975; 40 FR 26060 and 26061, June 20, 1975; 41 FR 8414 and 8415, February 26, 1976; 41 FR 18914 and 18915, May 7, 1976; 41 FR 31942 and 31943, July 30, 1976; and 42 FR 51635, September 29, 1977, (referred to herein as "the Notice").

Delete paragraph 3 of the Notice in its entirety and substitute the following:

3. Standard table of enriching services charges per kilogram unit of separative work, base charges and standard processing loss. (a) DOE's standard table of enriching services is set forth in Table 1 of this Notice. (b) The charges per kilogram unit of separative work furnished by DOE and the base charge (\$/kg U) for the sale of government-owned natural uranium will be published by separate notice. (c) The base charge (\$/kg U) for uranium enriched in the isotope U-235 and in the form of UF₆ is determined by summing (i) the number opposite the desired assay in the Feed Component column of Table 1 multiplied by the then applicable current base charge (\$/kg U) for the sale of government-owned natural uranium in the form of UF₆, and (ii) the number opposite the desired assay in the Separative Work Component column of Table 1 multiplied

by the current charge per kilogram unit of separative work furnished pursuant to other than requirements-type contracts. The calculated base charge is rounded up to the nearest \$0.01. For assays not shown in Table 1, the feed component and separative work component are first determined by linear interpolation before calculation of the base charge. (d) The price for uranium depleted in the isotope U-235 (tails) will be established in consideration of the market value of the material at the time of sale, or on a negotiated basis if market value cannot reasonably be determined. (e) The standard processing loss factor to be applied to toll enricher's acquisition of tails material is 0.05.

Dated: December 23, 1981.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy.

[FR Doc. 82-374 Filed 1-6-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59072A; TSH-FRL-2009-1]

Mixture of 1-Amino-8-Naphthol-4,6-Disulfonic Acid and its Mono and Disodium Salts; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-47) under section 5 of the Toxic Substances Control Act (TSCA) on November 13, 1981. Notice of receipt of the application was published in the *Federal Register* of November 24, 1981 (46 FR 57343). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on December 30, 1981.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, D.C. 20460, (202-426-8815).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice

(PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the *Federal Register*. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On November 13, 1981, EPA received from Mobay Chemical Corporation an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to import a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-47. The chemical identity of the new substance is a mixture of 1-amino-8-naphthol-4,6-disulfonic acid and its mono and disodium salts, and it will be used as a starting material for a dye intermediate. A maximum of 4,000 pounds will be imported for test market purposes, during a test marketing period not to exceed 6 months. During processing at one plant, one worker may be exposed for 1 hour per batch when charging the reactor. The test market substance will be processed in approximately 12 batches. There is a potential for a total of 12 hours of exposure. A notice published in the *Federal Register* of November 24, 1981 (46 FR 57343) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-47, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. A moderate potential for eye irritation was reported for the

TME substance. However, the worker exposed is advised to wear chemical goggles which mitigates the potential for unreasonable risk of injury. No additional health concerns of significance were identified for the TME substance. In the manufacture of the dye intermediate, the TME substance is completely converted to the intermediate. No environmental concerns were identified and environmental release is low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this importer.

2. The applicant must maintain records of the date(s) of shipment(s) as specified in the application, and of the quantities shipped in each shipment and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 4,000 pounds described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a six-month period commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: December 30, 1981.

John W. Hernandez, Jr.,
Acting Administrator.

[FR Doc. 82-379 Filed 1-6-82; 8:45 am]
BILLING CODE 6560-31-M

[AEN-FRL-1981-4]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted Assembly-Line Test (ALT) Procedures for various classes of new motor vehicles for the 1982 model year. The 1982 model year procedures are essentially the same as those for the 1981 model year. The few changes which CARB has adopted are minor in nature. I find the 1982 model year procedures to be included within the scope of previously granted waivers of Federal preemption. Since these procedures are included within the scope of these waivers, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

DATES: Any objection to the findings in this notice must be filed within 30 days of the date of this notice; otherwise, at the expiration of this 30-day period these findings will become final. Upon the receipt of any timely objection, EPA will consider scheduling a public hearing in a subsequent *Federal Register* notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Copies of the Assembly-Line Test Procedures at issue in this notice, a decision document containing an explanation of my determination, and documents used in arriving at this determination, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, S.W., Washington, D.C. 20460

(Docket EN-81-14). Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Mr. Chernenkoff, as noted below.

FOR FURTHER INFORMATION CONTACT: Michael Chernenkoff, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2521.

SUPPLEMENTARY INFORMATION: I have determined that CARB's 1982 model year ALT procedures are included within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).¹ The 1982 model year procedures are essentially the same as the 1981 model year procedures, but include several changes to reduce regulatory requirements for manufacturers, relative to the 1981 model year procedures. Specifically, the changes reduce manufacturer reporting requirements, adopt a new procedure for choosing the sample rate of vehicles for quality audit emission testing, and incorporate procedures for determining compliance with CARB's alternative optional oxides of nitrogen (NOx) standards for qualifying small-volume manufacturers. The changes neither significantly increase nor decrease the stringency of the 1982 model year ALT procedures relative to the 1981 model year procedures, nor raise any new technological feasibility or other issues.

A full explanation of my determination is contained in a decision document, which is incorporated by reference and which may be obtained from EPA as noted above.

Since the ALT procedures are included within the scope of previously granted waivers of Federal preemption, a public hearing to consider them is not necessary. However, if any party asserts an objection of these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise these findings will become final at the expiration of this 30-day period.

Note.—My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine

¹ See 45 FR 54130 (August 14, 1980); 45 FR 54126 (August 14, 1980).

and find that this decision is of nationwide scope and effect.

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981) requires EPA to initially determine whether a rule that it intends to propose or issue is a major rule and to prepare Regulatory Impact Analyses for all major rules. Section 1(b) of the Order defines "major rule" as any regulation that is likely to result in:

(1) an annual effect on the economy of \$100 million or more;

(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or

(3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this action does not constitute a major rule. The action confirms California's authority to enforce regulations which will reduce regulatory requirements on manufacturers, as compared to regulations applicable to the previous model year. If anything, the action will likely result in cost savings to consumers, Government agencies and industries affected because of the reduced requirements, and will likely have a beneficial effect on competition (both foreign and domestic), employment, investment, productivity, and innovation.

Accordingly, a Regulatory Impact Analysis is not being prepared for this waiver determination.

This action is not a "rule" as defined in 5 U.S.C. 601(2) because EPA is not required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Dated: December 30, 1981.

John W. Hernandez,
Acting Administrator.

[FR Doc. 82-390 Filed 1-8-82; 8:45 am]
BILLING CODE 6560-33-M

[AEW-FRL-2021-3]

California State Motor Vehicle Pollution Control Standards; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Requests for comments.

SUMMARY: The California Air Resources Board (CARB) has recently notified EPA of three sets of amendments to California's emission standards and test procedures for new motor vehicles, and has requested that the Administrator find that each of these sets of amendments is included within the

scope of previous waivers of Federal preemption granted to the State of California pursuant to section 209(b) of the Clean Air Act, as amended [Act]. These sets of amendments pertain to (1) heavy-duty engine emission standards and test procedures; (2) motorcycle emission standards and test procedures; and (3) passenger car, light-duty truck and, medium-duty vehicle emission standards and test procedures. This notice requests public comments on each of the above-mentioned California requests.

DATE: EPA requests that interested parties submit written comments on any or all of California's requests. Comments should be submitted by January 22, 1982, to ensure consideration of those comments in the Administrator's evaluation of California's requests.

ADDRESSES: Comments should be sent to the Director, Manufacturers Operations Division, U.S. Environmental Protection Agency (EN-340), 401 M Street, S.W., Washington, D.C. 20460. Information received from California, as well as any written comments received from interested parties, will be available for public inspection and copying in EPA Public Docket EN-81-18, located in EPA's Central Docket Section (A-130), Gallery I, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Chernenkoff, Attorney/Advisor, Manufacturers Operations Division (EN-340), 401 M Street, S.W., Washington, D.C. 20460, (202) 382-2521.
SUPPLEMENTARY INFORMATION: Section 209(a) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7543(a), provides:

No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrator

must grant a waiver unless he finds that: (A) the determination of the State is arbitrary and capricious, (B) the State does not need the State standards to meet compelling and extraordinary conditions, or (C) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

CARB recently submitted three letters to the Administrator notifying EPA that it had adopted amendments to its emission standards and test procedures for new motor vehicles. CARB asserts, and requests that the Administrator determine, that each of these three sets of amendments to its regulations fall within the scope of previously granted waivers, thereby obviating the need independently to meet the requirements of section 209(b) of the Act set forth above. EPA has made these determinations in the past where California's amendments do not undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards; do not affect the consistency of California's requirements with section 202(a) of the Act; and raise no new issues affecting EPA's previous waiver determinations.

The first CARB letter, dated September 17, 1981, notified EPA that on January 21, 1981, CARB had adopted new optional exhaust emission standards and test procedures for 1984 and subsequent model year heavy-duty engines¹ based on the Federal 1984 and subsequent model year transient cycle test procedures. These new standards and test procedures are alternatives to California's primary 1984 and subsequent model year standards and procedures based on steady-state test procedures.

CARB's second letter, dated October 27, 1981, notified EPA that on June 8, 1981, CARB's Executive Officer established a provision for small sales volume motorcycle manufacturers which provides for a special hydrocarbon (HC) exhaust emission standard for certain motorcycles for the 1982 model year only. In the same letter, CARB also notified EPA that on June 8, 1981, CARB's Executive Officer also amended the California motorcycle test procedures by providing manufacturers with the option, beginning with model year 1983, to determine durability deterioration factors by bench testing procedures (rather than actual vehicle

¹ Section 1956.7, Title 13, California Administrative Code.

testing) for certification of motorcycle evaporative emissions control systems.²

CARB's third letter, dated December 17, 1981, notified EPA that on May 20, 1981, CARB had amended its 1983 and subsequent model year exhaust emission standards and test procedures to include an alternative optional set of oxides of nitrogen (NO_x) exhaust emissions standards for passenger cars, light-duty trucks under 4,000 pounds equivalent inertia weight (EIW) and medium-duty vehicles under 4,000 EIW.³ These optional standards were adopted concomitant with provisions for recalls of vehicles for defects of a limited number of emission-related components up to seven years or 75,000 miles.⁴

Interested persons are hereby given the opportunity to submit written comments and address issues not arising in previous waiver determinations. Accordingly, EPA requests that interested parties submit written comments on any or all of the above-mentioned CARB requests. Comments should be submitted by January 22, 1982, to ensure the Administrator's consideration of those comments in the evaluation of these requests.

Dated: December 29, 1981.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-372 Filed 1-6-82; 8:45 am]

BILLING CODE 6560-26-M

[OPTS-59073A; TSH-FRL-2013-4]

Substituted Methylsilane Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-48) under section 5 of the Toxic Substances Control Act (TSCA) on November 19, 1981. Notice of receipt of the application was published in the *Federal Register* of November 30, 1981 (46 FR 58180). EPA has granted the exemption.

² Sections 1958 and 1976, Title 13, California Administrative Code. On July 23, 1980, CARB delegated authority to its Executive Officer to take each of these respective actions.

³ Section 1960.1, Title 13, California Administrative Code. CARB originally submitted a letter to the Administrator dated October 5, 1981, in which it requested a separate waiver of Federal preemption for these new optional standards. It later amended its position as stated in its more recent December 17, 1981 letter.

⁴ Section 1960.15, Title 13, California Administrative Code.

EFFECTIVE DATE: This exemption is effective on December 30, 1981.

FOR FURTHER INFORMATION CONTACT: Rachel S. Diamond, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-222, 401 M St., SW., Washington, D.C. 20460, (202-426-8815).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the *Federal Register*. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On November 19, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-48. The manufacturer has claimed its identity, the specific chemical identity, and the specific use of the chemical as confidential business information. The generic chemical identity is substituted methylsilane and it will be used as a coating. Five hundred pounds of the substance will be manufactured during a test marketing period of one year. During manufacture, no more than 10 workers may be exposed to the TME substance. The substance will be provided to one customer only and no

more than four workers may be exposed to the substance during its use. A notice published in the *Federal Register* of November 30, 1981 (46 FR 58180) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that test marketing of the substance described in TM-81-48, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. There were no significant environmental concerns for the TME substance. Although health concerns were identified, workers will be adequately protected against exposure. All operations during manufacture and use occur in closed systems, and personal protective equipment will be worn by workers. There is no potential for consumer exposure. Environmental release will be minimal, as all wastes will be treated prior to disposal.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.
2. The applicant must maintain records of the date(s) of shipment(s) and of the quantities shipped in each shipment, and must make these records available to EPA upon request.
3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.
4. The production volume of the new substance may not exceed the quantity of 500 pounds described in the test marketing exemption application.
5. The test marketing activity approved in this notice is limited to a period of one year commencing on the date of signature of this notice by the Administrator.
6. The number of workers exposed to the new chemical should not exceed that specified in the application.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an

unreasonable risk of injury to human health or the environment.

Dated: December 30, 1981.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 82-419 Filed 1-6-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81-709 File No. 21322-CD-P-(2)-79 and CC Docket No. 81-710 File No. 21862-CD-P-79]

Message Center, Inc. and Radio Relay New York Corp.; Correction

Released: December 28, 1981.

By the Common Carrier Bureau.

In re Applications of Message Center, Inc.: For a Construction Permit to establish additional one-way facilities for station KDS295 to operate on frequency 43.22 MHz in the Domestic Public Land Mobile Radio Service at Waterbury and New Haven, Connecticut; CC Docket No. 81-709; File No. 21322-CD-P-(2)-79. Radio Relay New York Corporation: For a Construction Permit to establish additional one-way facilities for Station KEC745 to operate on frequency 43.22 MHz in the Domestic Public Land Mobile Radio Service at Danbury, Connecticut; CC Docket No. 81-710; File No. 21862-CD-P-79.

1. On October 8, 1981, we released a *Memorandum Opinion and Order* (Order), Mimeo 003814, in the above-captioned proceeding. The caption of that Order inadvertently omitted one of the locations included in the application of Radio Relay New York Corporation (Radio Relay). Accordingly, the Order is hereby corrected to include that location by revising the portion of the caption concerning Radio Relay to read as follows:

Radio Relay New York Corporation, for a Construction Permit to establish additional one-way facilities for Station KEC745 to operate on frequency 43.22 MHz in the Domestic Public Land Mobile Radio Service at Danbury and Trumbull, Connecticut; CC Docket No. 81-710; File No. 21862-CD-P-79.

William F. Adler,

Acting Chief, Mobile Services Division,
Common Carrier Bureau.

[FR Doc. 82-426 Filed 1-6-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Doc. No. 81-855; File No. BPH-790518AA]

Vacationland Broadcasting Co. Inc. et al.

In re Applications of Vacationland Broadcasting Company, Inc. (WFTW-FM), Ft. Walton Beach, Florida, Has: 99.3 MHz, Channel 257, 3 kW, 170 feet, Req: 96.5 MHz, Channel 243, 100 kW, 620 feet; BC Docket No. 81-855; File No. BPH-790518AA. For construction permit to make major changes in the facilities of station WFTW-FM. Miracle Strip Communications, Inc., Ft. Walton Beach, Florida, Req: 96.5 MHz, Channel 243, 100 kW, 620 feet; BC Docket No. 81-856; File No. BPH-790509AA. SJK, Inc., Ft. Walton Beach, Florida, Req: 96.5 MHz, Channel 243, 100 kW, 620 feet; BC Docket No. 81-857; File No. BPH-790911AB. Juanina, Inc., Ft. Walton Beach, Florida, Req: 96.5 MHz, Channel 243, 100 kW, 670 feet; BC Docket No. 81-858; File No. BPH-791114AD. Pinnacle Broadcasting Corporation, Ft. Walton Beach, Florida, Req: 96.5 MHz, Channel 243, 100 kW, 625 feet; BC Docket No. 81-859; File No. BPH-791115AB. KY Broadcasting, Inc., Ft. Walton Beach, Florida, Req: 96.5 MHz, Channel 243, 100 kW, 620 feet; BC Docket No. 81-860; File No. BPH-791115AG. Da-Gon Broadcasting Company, Inc., Ft. Walton Beach, Florida, Req: 96.5 MHz, Channel 243, 100 kW, 620 feet; BC Docket No. 81-861; File No. BPH-791115AI. For construction permit for a new FM Station; Designating applications for consolidated hearing on stated issues.

Hearing Designation Order

Adopted: December 10, 1981.

Released: December 23, 1981.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (i) the above-captioned mutually exclusive applications filed by Vacationland Broadcasting Company, Inc., Miracle Strip Communications, Inc. (Miracle Strip); Vacationland Broadcasting Company, Inc.; SJK, Inc. (SJK); Juanina, Inc.; Pinnacle Broadcasting Corporation KY Broadcasting, Inc. (KY); and Da-Gon Broadcasting Company, Inc. (Da-Gon); (ii) a petition to deny, filed by the Department of Defense; and (iii) pleadings in oppositions and reply, thereto.¹

¹ The petition to deny asserted that the transmitter sites proposed by the applicants would interfere with certain test flight activities at Eglin Air Force Base. All of the applicants have amended to new transmitter sites (five at a common site) and, accordingly, we are granting all of the applicants leave to amend. On October 2, 1981, the Department of Defense withdrew its petition to deny as moot.

2. *Miracle Strip*. Analysis of the financial data submitted by Miracle Strip reveals that \$80,892 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	\$5,250
Equipment payments with interest	5,250
Land	300
Building	600
Miscellaneous	52,500
Operating costs (3 months)	16,992
Total	80,892

Miracle Strip plans to finance construction and operation with the following funds: \$10,000 in new capital and a \$75,000 loan. The July 1, 1980 balance sheet of George Marks shows \$75,000 in current liquid assets available. Lois N. Marks has failed to submit a balance sheet. Therefore, from the information before us, Miracle Strip has demonstrated the availability of only \$75,000 to meet the \$80,892 required to construct and operate the proposed facility. Accordingly, a limited financial issue will be designated.

3. *SJK*. Analysis of the financial data submitted by SJK reveals that \$584,090 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	\$420,000
Land	12,000
Building	15,900
Miscellaneous	62,000
Operating costs (3 months)	75,000
Total	584,090

SJK plans to finance construction and operation with the following funds: \$1,000 cash on hand and a \$600,000 loan from Smith Broadcasting, Inc. However, according to the Smith Broadcasting, Inc. balance sheet dated February 28, 1981, Smith has \$449,543 available; \$759,220 in current liquid assets offset by \$309,677 in current liabilities. Therefore, SJK has demonstrated only \$450,543 available to meet the \$584,090 required to operate and construct the proposed station. A limited financial issue will be specified.

4. *KY*. Analysis of the financial data submitted by KY reveals \$254,504 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	\$113,200
Land	9,304
Buildings	5,000
Miscellaneous	6,000
Operating costs (3 months)	66,000
Total	254,504

KY plans to finance construction and operation with the following funds:

\$130,000 in stock subscriptions and \$95,000 in loan commitments. KY adequately demonstrated the availability of the following funds: \$17,500 cash on hand (prepaid stock subscriptions); David King \$35,000; Yvonne King \$14,500; James Nathan \$8,000; Betty Phelps \$350; and Stanley Suarez \$2,900. The remaining stock subscription commitments are not supported by balance sheets or financial statements that indicate sufficient net liquid assets. Most of the stock subscribers failed to segregate long term from short term liabilities. Additionally, the November 6, 1979 letter from Union-Tidewater Financial Company, Inc. merely states "we would seriously consider the financing of * * * equipment * * * for KY" and is not a firm commitment. Therefore, from the information before us, KY has demonstrated the availability of only \$78,250 to meet the \$254,504 required to construct and operate the proposed facility. A limited financial issue will be designated.

5. **DA-GON.** Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. From the evidence before us, Da-Gon's public notice does not contain a list of the officers, directors and 10% shareholders. To remedy this deficiency, Da-Gon will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That,

pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Miracle Strip Communications, Inc:

(a) The source and availability of additional funds over and above the \$75,000 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine with respect to SJK, Inc: (a) the source and availability of funds over and above the \$450,543 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine with respect to KY Broadcasting, Inc:

(a) The source and availability of additional funds over and above the \$78,250 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That Da-Gon Broadcasting Company, Inc. shall file a statement with the presiding Administrative Law Judge showing compliance with the public notice requirements of § 73.3580(f) of the Commission's rules.

10. It is further ordered, That in the event the application of Vacationland Broadcasting Company is granted, it is subject to the condition that if the Commission ultimately adopts a rule prohibiting commonly owned AM and FM stations in the same market, Vacationland will divest itself of either its AM station or FM station in accordance with the requirements established in such rulemaking proceeding.

11. It is further ordered, That in the event the application of SJK, Inc. is granted, it is subject to the condition that if the Commission ultimately adopts a rule prohibiting commonly owned AM and FM stations in the same market, SJK, Inc. will divest itself of either its AM station or FM station in accordance with the requirements established in such rulemaking proceeding.

12. It is further ordered, That to avail themselves of the opportunity to be

heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communication Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shibben,

Chief, Broadcast Bureau.

Larry D. Eads,

Chief, Broadcast Facilities Division,
Broadcast Bureau.

BC Docket Nos. 81-855, 81-858, 81-856, 81-859, 81-857, 81-860, 81-861.

Appendix

14. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower(s) proposed by the below listed applicant(s). Accordingly, it is further ordered, That the following issue is specified:

4. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height(s) and location(s) proposed by Juanina, Inc. and Pinnacle Broadcasting Corporation.

15. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

[FR Doc 82-427 Filed 1-6-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-4-SC-1]

The South Carolina Radiological Emergency Response Plan for the H. B. Robinson Nuclear Power Plant

AGENCY: Federal Emergency
Management Agency.

ACTION: Certification of FEMA findings
and determination.

In accordance with FEMA Rule 44
CFR 350 (proposed), on June 4, 1980, the
State of South Carolina submitted its

plans relating to the H. B. Robinson Nuclear Power Plant to the Regional Director who has forwarded his evaluations to the Associate Director for State and Local Programs and Support, in accordance with paragraph 350.11 of the proposed rule. Considered in his evaluations of the State and associated local plans were the contiguous State and local plans involved in the 10- and 50-mile emergency planning zones (EPZ's), a critique of the exercise conducted on March 11-12, 1981, in accordance with 350.9, and a report of the public meeting held on March 10, 1981, to discuss the site specific aspects of the State and local plans in accordance with paragraph 350.10 of the proposed rule.

Based on a review of the Region's evaluations by FEMA Headquarters, the Associate Director finds and determines that, subject to the condition stated below, State plans and preparedness including local plans and preparedness for the H. B. Robinson plant are adequate to protect the health and safety of the public living in the vicinity of the plant. There is reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency. The condition for the above approval is that by February 1, 1982, the public alerting and notification system must meet the Federal Emergency Management Agency (FEMA)-Nuclear Regulatory Commission (NRC) joint criteria as stated in NUREG-0654/FEMA-REP-1, Rev. 1. These findings and determination have been communicated to the NRC and to the Governor of South Carolina.

FEMA will continue to review the status of preparedness of the State and its local jurisdictions associated with the Robinson plant in accordance with paragraph 350.13 of the proposed rule.

For further details with respect to the action, refer to Docket File FEMA-REP-4-SC-1 for Robinson maintained by the FEMA Regional Director at 1375 Peachtree Street N.E., Atlanta, Georgia 30309.

Dated: December 28, 1981, in Washington, D.C.

For the Federal Emergency Management Agency.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-331 Filed 1-6-82; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently in pertinent part at 46 FR 2193, January 8, 1981), is amended to reflect the following changes within the National Institute on Aging: (1) Change the title from Social and Behavioral Research Program to Behavioral Sciences Research Program, and (2) amend the functional statement of the Program. These changes reflect the change of emphasis in the Program.

Sec. HN-B, Organization and Functions is amended as follows: (1) Under the heading *National Institute on Aging (HN-X)*, delete the statement for the *Social and Behavioral Research Program HN-X5* in its entirety and substitute the following:

Behavioral Sciences Research Program (HN-X5). (1) Provides advice and assistance to the Institute Director and other officials on behavioral sciences research programs, activities, and organizations; (2) plans and directs a national and international program of extramural and collaborative research and training in the areas of behavioral sciences research; (3) plans, develops, and administers policies and operating procedures of the Program, and evaluates scientific accomplishments of supported scientists and institutions for conformance to program goals and objectives; (4) assesses needs for research and training in the Program's scientific fields of responsibility, and recommends priorities and areas for emphasis; (5) collaborates with NIH Bureaus, Institutes and Divisions and other Federal agencies in the coordination and support of relevant scientific activities; (6) recommends mechanisms to be used, or develops mechanisms, to accomplish program objectives; (7) consults with professional and scientific associations in identifying research needs and develops programs to meet them.

Dated: December 28, 1981.

Richard S. Schweiker,
Secretary.

[FR Doc. 82-378 Filed 1-6-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Aminoil USA, Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0434, Block 149, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 29, 1981.

Lowell G. Hammons,
Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-363 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G

2870, Block 60, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 29, 1981.

Lowell G. Hammons,
Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-362 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-31-M

National Earthquake Prediction Evaluation Council; Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Pub. L. 94-463), the Secretary has determined that renewal of the National Earthquake Prediction Evaluation Council is necessary and in the public interest.

The purpose of the committee is to advise the Director of the U.S. Geological Survey (USGS) whether and when to issue predictions or other information pertinent to the potential for a future significant earthquake.

The General Services Administration has concurred in the renewal of this committee.

Further information regarding this renewal may be obtained from John R. Filson, Chief, Office of Earthquake Studies, Reston, Virginia 22092, (703) 860-6471.

Dated: December 31, 1981.

Dallas L. Peck,

Director.

[FR Doc. 82-360 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Diamond Shamrock Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3419, Block 116, Main Pass Area, offshore Louisiana and Mississippi.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 29, 1981.

Lowell G. Hammons,
Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-361 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Indian Affairs

Water Charges and Related Information on the Fort Hall Irrigation Project, Idaho

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant

Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Fort Hall Irrigation Project for Calendar Year 1982 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

The purpose of this notice is to announce an increase in the Fort Hall Project assessment rates proportionate with actual operation and maintenance costs. The proposed assessment rates for 1982 will amount to an increase of approximately five percent.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested person may submit written comments, views and arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, by February 8, 1982.

For Hall Irrigation Project Regulations and Charges

Administration

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including ceded area south of the Fort Hall Indian Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 15 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

Methods of Irrigation

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the Officer-in-Charge may limit deliveries to this type of irrigation.

Distribution and Apportionment of Water

(a) *Delivery:* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the Officer-in-Charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditch rider who may permit such exchange, if feasible.

(b) *Preparation and Submission of a Water Schedule:* If the decision of the Officer-in-Charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for Deliveries of Irrigation Water:* Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Duty of Water: Dependent upon available supplies of water for each unit of the Project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the Officer-in-Charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rata share of the total water supply.

Charges: Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

Basic and Other Water Charges: (a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a non-member of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1981 and subsequent years until further notice as follows:

- (1) Fort Hall Unit basic rate—\$16.70 per acre.
- (2) Michaud Unit basic rate—\$20.00 per acre.
- (Additional rate for sprinkler when pressure is supplied by project—\$8.50 per acre)
- (3) Minor Units basic rate—\$13.90 per acre.

(b) In addition to the foregoing charges there shall be collected a minimum charge of \$5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus \$5.

Payments: The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Assessments on Indian Owned Land

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or non-members of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or non-members of the tribe, is subject to operation and maintenance

assessments the same as lands on non-Indian ownership and lands owned by non-members of the tribe within the project. (See Solicitor's Opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938).

Vincent Little,

Area Director.

[FR Doc. 82-364 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[OR 23769(WASH)]

Washington; Order Providing for Opening of Public Land

1. In an exchange of lands made pursuant to Section 206 of the Act of October 21, 1976, 90 Stat. 2756; 43 U.S.C. 1716 (1976), the following land has been reconveyed to the United States:

Willamette Meridian

T. 37 N., R. 27 E.,

Sec. 34, E½NE¼;

Sec. 35, W½NW¼.

The area described contains 160 acres in Okanogan County, Washington.

2. At 10 a.m., on February 12, 1982, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on February 12, 1982, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. At 10 a.m., on February 12, 1982, the land will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 29, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-368 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-84-M

Prineville District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Prineville District

Advisory Council will be held on February 18, 1982.

The Council will meet in the Prineville BLM district conference room at 9:30 a.m. at 185 E. 4th Street, Prineville, OR 97754.

The agenda includes:

1. Update on land use plan and grazing EIS for Brothers Planning area.
2. Status of wilderness program and studies scheduled during 1982.
3. Revised maintenance policy on range improvements.
4. Update on wild horse program.
5. Improvement of public service in district.
6. Status of Deschutes River program.

The public and news media are welcome to attend any segment of the Council meeting.

Persons wishing to address the Council either orally or in writing are requested to contact the District Manager at the above address by February 12, 1982.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

James L. Hancock,
Assistant District Manager.
December 24, 1981.

[FR Doc. 82-361 Filed 1-6-82; 8:45 am]
BILLING CODE 4310-84-M

[C-16268]

Colorado; Proposed Continuation of Withdrawal

December 30, 1981.

In accordance with the provisions of Section 204 of the Federal Land Policy and Management Act, the Bureau of Land Management (BLM) is reviewing possible continuation of an existing Gunnison Gorge Protective Site Withdrawal made by virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), and the authority contained in Section 3 of the Act of June 17, 1902, as amended.

1. The Bureau of Land Management, Department of the Interior, withdrew certain described lands under Public Land Order 5261, effective September 15, 1972. The description of these lands has been changed to conform to the latest plats of survey. The following described lands are currently proposed for withdrawal continuation.

A. Sixth Principal Meridian

- T. 15 S., R. 93 W.,
Sec. 6, Lots 8, 9, 10;
Sec. 7, Lots 8 through 18;

- Sec. 18, Lots 1 through 6, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ (all);
Sec. 19, Lots 1 through 4, NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 20, Lots 1 through 5, SE $\frac{1}{4}$;
Sec. 21, Lots 1, 2, 3, W $\frac{1}{2}$, SE $\frac{1}{4}$;
Sec. 22, Lot 2, SW $\frac{1}{4}$;
Sec. 30, Lots 1 through 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ (all);
Sec. 31, Lots 6 through 12, NE $\frac{1}{4}$,
Sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$.

- T. 15 S., R. 94 W.,
Sec. 1, Lots 22, 23, 24, 28, 29, and 33;
Sec. 12, Lots 4, 11, 17, and 18;
Sec. 13, Lots 1, 2, NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 23, NE $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 24, Lots 1 through 4, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$ (all);
Sec. 25, Lots 1 through 4, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$ (all);
Sec. 26, All;
Sec. 35, All;
Sec. 36, Lots 1 through 4, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$ (all).

New Mexico Principal Meridian

- T. 50 N., R. 8 W.,
Sec. 6, Lots 1 through 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ (all);
Sec. 7, Lots 1 through 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ (all);
Sec. 18, Lots 1 through 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ (all).
T. 51 N., R. 8 W.,
Sec. 7, Lots 6, 7, and 8;
Sec. 18, Lots 5 through 20 (all);
Sec. 19, Lots 5 through 15;
Sec. 20, Lots 1, 2, 3, NW $\frac{1}{4}$;
Sec. 21, Lots 2, 3, and 4;
Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$;
Sec. 30, Lots 5 through 19, NE $\frac{1}{4}$ SE $\frac{1}{4}$ (all);
Sec. 31, Lots 5 through 16, SE $\frac{1}{4}$ (all).

- T. 50 N., R. 9 W.,
Sec. 1, Lots 1 through 4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ (all);
Sec. 2, Lots 1 through 4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ (all);
Sec. 3, Lots 1 through 4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ (all);
Sec. 11, All;
Sec. 12, E $\frac{1}{2}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
T. 51 N., R. 9 W.,
Sec. 10, Lots 1 through 4;
Sec. 11, Lots 1 through 4;
Sec. 12, Lot 4;
Sec. 13, E $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 14, All;
Sec. 15, All;
Sec. 22, All;
Sec. 23, N $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 24, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 25, All;
Sec. 26, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 27, All;
Sec. 34, All;
Sec. 35, All;
Sec. 36, All;

Containing 24,020.68 acres in Delta and Montrose Counties.

B. The minerals in the following described lands were also withdrawn from entry under the U.S. mining laws, U.S.C. Ch. 2; however, these lands have been and continue to be open to the mineral leasing laws. Although the surface of these lands was formerly

patented, it has since been reconveyed to the U.S. and opened to the public land laws on December 28, 1977.

Sixth Principal Meridian

- T. 15 S., R. 93 W.,
Sec. 31, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 32, SW $\frac{1}{4}$ SW $\frac{1}{4}$.

New Mexico Principal Meridian

- T. 51 N., R. 9 W.,
Sec. 12, Lots 1, 2, 3;
Sec. 13, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 23, SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 24, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing 1,279.30 acres in Delta and Montrose Counties.

C. In addition, the minerals are privately owned in the following described lands.

New Mexico Principal Meridian

- T. 51 N., R. 8 W.,
Sec. 29, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 30, NE $\frac{1}{4}$ SE $\frac{1}{4}$.
Containing 160.00 acres in Montrose County.

The Bureau proposes continuation of the withdrawal in its entirety for a period of 20 years. The withdrawal closed the described lands to all forms of appropriation under the public land laws, including the mining laws, but not to leasing under the mineral leasing laws, except as noted in items 1-B and 1-C. No change in the segregative effect or use of the land would be affected by the continuation, except as noted in items 1-B and 1-C.

Notice is hereby given that a public hearing may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before April 7, 1982. Upon a determination by the State Director, Bureau of Land Management, that a public hearing should be held, a notice will be published in the Federal Register giving the time and place of such hearing. Public hearings will be scheduled and conducted in accordance with BLM Manual 2351.16B.

Additionally, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM within 90 days of the date of publication of this notice.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration by the Office of the Secretary of the Interior. The final

determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, Colorado State Office, 1037 20th St., Denver, CO 80202.

Dated: December 30, 1981.

Richard D. Tate,

Acting Chief, Branch of Adjudication.

[FR Doc. 82-356 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-84-M

Socorro District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94-579, that a meeting of the Socorro District Grazing Advisory Board will be held on Tuesday, February 9, 1982.

The meeting will begin at 9:00 a.m., in the Hospitality Room of the First State Bank at 103 Manzaneros Avenue, NE., Socorro, New Mexico.

The agenda for the meeting will include:

(1) Discussions on the new Advisory Board Charter.

(2) Update on the West Socorro Environmental Impact Statement.

(3) Update on the East Socorro Environmental Impact Statement.

Review and comments on the range improvement maintenance stipulations.

(5) Update on other range programs.

(6) Future meetings, topics and schedules.

The above outline of topics will be covered in the morning session. The afternoon session will be a tour of the San Jose Canyon Allotment. The tour will start at 12:00 noon. Public wishing to attend must provide their own transportation and sack lunch.

The meeting is open to the public. Interested persons may make oral statements to the board between 11:00 and 12:00 a.m., or file written statements for the board's consideration.

Arlen P. Kennedy,

District Manager.

[FR Doc. 82-368 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-84-M

[U-2923; U-7040; U-7041]

Utah; Termination of Classification for Multiple-Use Management and Termination of Mineral Segregation

1. Pursuant to the authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), the Bureau of Land

Management Multiple-Use Classification Orders dated September 6, 1967, and February 5, 1969, Serial Nos. U-2923, U-7040, and U-7041 published in the Federal Register September 7, 1967, Vol. 32, No. 173, Page 12804, and February 6, 1969, Vol. 34, No. 25, Pages 1775 and 1776 respectively, are hereby terminated.

The public lands involved aggregate 3,035,352 acres in Box Elder, Rich and Tooele Counties.

2. The public lands described in the notices were classified for Multiple-Use Management and segregated from appropriation under the Agricultural Land Laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. Sec. 334), and from sales under Section 2455 of the Revised Statutes as amended (43 U.S.C. 1171). Paragraph 3 of each order also segregated 6,407 acres from all forms of appropriation, entry, location or selection under the public land laws, including the general mining laws, and from surface use and occupancy under the mineral leasing laws.

3. Pursuant to the regulation set forth in (43 CFR 2461.5(c)(2)), the above classification is hereby terminated. At 10:00 a.m., on February 16, 1982, the lands described in Notices listed in paragraph No. 1 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable Law. All valid applications received at or prior to 10:00 a.m., on February 16, 1982 shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. The lands described in paragraph 3 of the notices listed in paragraph No. 1 will also be open to location under the United States Mining Laws at 10:00 a.m. on February 16, 1982.

Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, Salt Lake City UT 84111.

Dated: December 23, 1981.

Dean E. Stepanek,

Acting State Director.

[FR Doc. 82-362 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-84-M

[Coal Lease Application C-0126998]

Colorado; Land in Rio Blanco County Public Hearing; Availability of Environmental Assessment, and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado

State office, Denver, Colorado, hereby gives notice that a public hearing will be held on January 27, 1982 at 7:30 p.m. at the Fairchild Center, 200 Main St., Meeker, Colorado 81641. Application has been made by Consolidation Coal Company to the United States that it lease non-competitively coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment and on the following items:

(1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment. Written requests to testify orally at the January 27, 1982 public hearing should be received at the Craig District Office, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81625, prior to the close of business January 26, 1982. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to Craig District Office at the above address, prior to close of business on February 1, 1982. Substantive comments, whether written or oral, will receive equal consideration prior to any lease issuance.

The coal resource to be leased is located in the following described lands approximately 7 miles north of Meeker, Colorado:

T. 2 N., R. 93 W., 6th P.M.,
 Sec. 2, Lots 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
 SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 3, All;
 Sec. 4, Lots 1, 23, SE $\frac{1}{4}$;
 Sec. 10, Lots 7, 9, 11, 27, 29, N $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 11, Lots 1, 3, 6, 7, 9, 10, W $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$;
 Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$;
 Sec. 15, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
 T. 3 N., R. 93 W., 6th P.M.,
 Sec. 25, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 27, S $\frac{1}{2}$;
 Sec. 28, Lot 22, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 33, Lots 1, 12, 13, 16, 24, 26;
 Sec. 34, Lots 1, 4, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
 Sec. 35, All;

Sec. 36, W½.

Containing 5099.31 acres.

The draft Environmental Assessment will be available for review in the Craig District Office. Single copies are available for distribution upon request from the office at the above address.

A copy of the Environment Assessment, and the case file will be available for public inspection at the Colorado State Office, Bureau of Land Management, 1037 20th St., Denver, Colorado 80202.

Rodney A. Roberts,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 82-342 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-84-M

[UT-910 4310 84]

Utah; Redelegation of Authority From the District Manager to Area Managers

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with Bureau Order 701 and Amendments 1-27 and pursuant to authority contained in Part III Sections 3.1 and 3.9 of that Order, Area Managers of the districts in Utah are authorized to take actions under 43 CFR 3600 relating to any sale or contract for the sale of material other than forest products not exceeding \$10,000 in value.

Performance of these duties is under the direct supervision of the District Manager.

Authority for material sales on which Area Managers may take action is listed below:

- (a) Bureau Order 701 as amended, Section 3.9—Land Use: The Area Manager may take all listed action on:
- (g) Material other than forest products not exceeding \$10,000 in value unless authority to make sales in greater amounts is delegated by the District Manager and State Director.

(b) 45 FR 54147, August 14, 1980 which increased District Managers' authority to \$10,000.

Dated: December 29, 1981.

Roland G. Robison, Jr.,

Utah State Director.

[FR Doc. 82-343 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-84-M

Frontier Pipeline Project; Notice of Intent To Prepare an Environmental Impact Statement and Hold Public Meetings

December 28, 1981.

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Prepare an environmental impact statement (EIS) and hold public scoping meetings on the construction of a 20-inch crude oil pipeline from the Anschutz Ranch Field, Uinta County, Wyoming to Casper, Wyoming, hereafter called the Frontier Pipeline Project

SUMMARY: This notice describes the action to be analyzed in the EIS; the geographic area that would be affected; the preliminary list of issues and concerns; the scoping process to be used; the locations of offices which have information available for public review both during and at the completion of the process; and the BLM contact for further information.

SUPPLEMENTARY INFORMATION: The action to be analyzed in the EIS consists of construction of a 20-inch underground crude oil pipeline and associated pump stations. The route extends from the Anschutz Ranch Field in southwestern Uinta County, Wyoming to Casper, Wyoming, a distance of approximately 300 miles.

The proposed pipeline would link oil fields in the Overthrust Area of western Wyoming with existing pipeline systems to the Rocky Mountain area and midwest refineries. In 1983 crude oil and condensate production from new and existing fields in the Overthrust Area are forecasted to exceed the demands of the Salt Lake City area refineries and the capacity of the existing small diameter pipelines out of the area.

Geographic Area

The geographic area to be analyzed for effects generally extends one mile on either side of the proposed pipeline routes and to nearby population centers in Uinta, Lincoln, Sweetwater, Carbon, Fremont and Natrona Counties.

Issues and Concerns

Important issues and concerns which have been identified to date include:

1. Potential socioeconomic impacts of accommodating construction crews in nearby communities in Uinta, Lincoln, Sweetwater, Carbon, Fremont and Natrona Counties in Wyoming.
2. Potential impacts on terrestrial and aquatic wildlife and their habitat.
3. Potential impacts from crude oil spills.
4. Potential impacts to identified and unidentified mineral resources.
5. Potential impacts to land use.

The public is encouraged to present their ideas on these and other issues and concerns including alternative routing for consideration in the EIS at the public scoping meetings. All issues and

concerns will be considered in preparation of the EIS.

DATES: Public scoping meetings will be held during the week of February 8, 1982 in Evanston, Rock Springs, Rawlins and Casper, Wyoming for the purpose of identifying issues and concerns for the EIS. A Federal Register notice, public notices in local newspapers, and press releases will announce the specific locations, dates, and times of the public scoping meetings.

ADDRESSES: Information and materials providing a description of the project are available for review at the following locations:

Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001

Bureau of Land Management, Rock Springs District Office, North Highway 187, Rock Springs, Wyoming 82901

Bureau of Land Management, Rawlins District Office, 1300 Third Street, Rawlins, Wyoming 82301

Bureau of Land Management, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601

In addition, copies of a public scoping document will be available after January 8, 1982 and can be obtained by writing to the following address: Bureau of Land Management, Rawlins District Office, P.O. Box 670, Rawlins, Wyoming 82301.

Any person wishing to submit any issues or suggestions for alternate routes for consideration in the scoping process are encouraged to do so. Such written scoping input should be sent to the office listed above and received no later than February 19, 1982, in order to be considered in determining the scope of the EIS.

FOR FURTHER INFORMATION CONTACT:

David J. Walter, District Manager, Rawlins District Office, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301, (307) 324-7171.

All attendees of the public scoping meeting will be given an opportunity to participate and raise issues for consideration in the EIS.

In addition, if at any time during the EIS process any person wishes to raise issues for consideration, they should feel free to do so by contacting the following office: Bureau of Land Management, Rawlins District Office, P.O. Box 670, Rawlins, Wyoming 82301.

Jack Belmain,
Acting State Director.

[FR Doc. 82-339 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 16906, OR 18663, OR 18667, OR 19337]

Oregon; Order Providing for Opening of Public Lands

1. In exchanges of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756; 43 U.S.C. 1716 (1976), the following lands have been reconveyed to the United States:

Willamette Meridian

- T. 20 S., R. 30 E.,
Sec. 20, N $\frac{1}{2}$ S $\frac{1}{2}$.
- T. 22 S., R. 30 E.,
Sec. 20, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$,
and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 28, S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 29, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 34, N $\frac{1}{2}$ NW $\frac{1}{4}$.
- T. 24 S., R. 35 E.,
Sec. 1, Lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$.
- T. 7 S., R. 41 E.,
Sec. 16, Lot 7;
Sec. 22, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 27, N $\frac{1}{2}$ NW $\frac{1}{4}$.

The areas described aggregates 1,247.96 acres in Baker and Harney Counties, Oregon.

2. At 10 a.m., on February 11, 1982, the lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on February 11, 1982, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. All minerals in the following lands were and continue to be in the United States ownership. The lands have been and continue to be open to operation of the United States mining laws and the mineral leasing laws.

Willamette Meridian

- T. 20 S., R. 30 E.,
Sec. 20, N $\frac{1}{2}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 22 S., R. 30 E.,
Sec. 28, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 34, N $\frac{1}{2}$ NW $\frac{1}{4}$;
- T. 7 S., R. 41 E.,
Sec. 22, W $\frac{1}{2}$ SW $\frac{1}{4}$.

4. At 10 a.m., on February 11, 1982, the lands described in paragraph 1, except as provided in paragraph 3, will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 30, 1981.

Harold A. Berends,
Chief, Branch of Lands and Minerals
Operations.

[FR Doc. 82-420 Filed 1-6-82; 8:45 am]
BILLING CODE 4310-64

Bureau of Reclamation**Tucson Aqueduct Phase A—Central Arizona Project, Arizona; Public Hearings on Draft Environmental Statement**

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental impact statement for the Tucson Aqueduct Phase A, authorized as part of the Central Arizona Project by the Colorado River Basin Project Act (Pub. L. 90-537) of September 30, 1968. This statement (INT DES 81-48 dated 11/23/81), filed with the EPA (Environmental Protection Agency), is available to the public as specified in the Notice of Availability.

The draft environmental impact statement supplements the general information for the Tucson Aqueduct system as covered in the final environmental statement for the overall Central Arizona Project which was filed with CEQ (Council on Environmental Quality) on September 26, 1972 (FES 72-35). The purpose of the aqueduct is to convey Colorado River water from the terminus of the Salt-Gila Aqueduct in south central Pinal County to the vicinity of Rillito in northern Pima County. Construction of the feature is scheduled to begin in mid-1983, with project completion scheduled for 1987.

Public hearings to receive comments on the draft statement will be held in Eloy, Arizona, at 1 p.m. on January 26, 1982, at the Social Service Center located at 100 East Seventh Street; and in Tucson, Arizona, at 1 and 7 p.m. on January 27, 1982, at the Tucson Community Center located at 350 South Church Street.

Oral presentations at the hearings will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral statement; however, the Hearing Officer may allow any speaker to provide additional oral comment after all persons wishing to make comments have been heard. Additional comments will be limited to 10 minutes. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible. Any scheduled speaker not present when called will lose his or her privilege in the scheduled order and his or her name

will be recalled at the end of the scheduled speakers. Requests for scheduled presentations will be accepted up to 4 p.m., January 22, 1982, and any subsequent requests will be handled on a first-come, first-serve basis following the scheduled presentations.

Organizations or individuals desiring to present their statements at the hearing should contact the Environmental Division, Bureau of Reclamation, Arizona Projects Office, Suite 2200—Valley Center, 201 North Central Avenue, Phoenix, Arizona 85073, telephone (602) 261-3577, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentations will be accepted for the record until 4 p.m., January 28, 1982. Written comments should be addressed to the Environmental Division at the address listed above and should specify that they are to be included in the hearing record.

Dated: December 18, 1981.

Robert N. Broadbent,
Commissioner.

[FR Doc. 82-486 Filed 1-6-82; 8:45 am]
BILLING CODE 4310-09-M

Office of the Secretary**Privacy Act of 1974; Revision and Update of Notices of Systems of Records**

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the publication of the material in the *Federal Register* on April 11, 1977 (42 FR 18968), and September 10, 1977 (42 FR 52500).

Three U.S. Geological Survey records systems were erroneously included as Privacy Act Systems of records and are deleted as follows:

System name	Previously published at
1. Accident Reports and Investigations—Interior, GS-8.	42 FR 19056.
2. Lunar Sample—Interior, GS-10.	42 FR 19057.
3. Correspondence—Interior, GS-22.	42 FR 19061.

Part IX of the Appendix containing addresses of facilities of the Department which pertains to the U.S. Geological Survey (published at 42 FR 18982-18992)

is revised and updated. The detailed listing of U.S. Geological Survey field facilities is no longer required for use with the Bureau's system notices and is deleted. The revised Part IX of the Appendix is published below.

The following U.S. Geological Survey system notices are updated and republished in their entirety below:

System name	Previously published at
1. Payroll, Attendance and Leave Records—Interior, GS-1.	42 FR 19054.
2. Contract Files—Interior, GS-5.	42 FR 19055.
3. Personal Property Accountability Records—Interior, GS-7.	42 FR 19058.
4. National Research Council Grants Program—Interior, GS-9.	42 FR 19057.
5. Security—Interior, GS-11.	42 FR 19057.
6. Project Descriptions and Work Plans and Accomplishments—Interior, GS-12.	42 FR 19058.
7. Manuscript Processing—Interior, GS-13.	42 FR 19058.
8. Cartographic Information Customer Records—Interior, GS-15.	42 FR 19059.
9. Office of Minerals Exploration (OME) Financial Assistance Applications—Interior, GS-16.	42 FR 19059.
10. Management Information System, National Mapping Division—Interior, GS-17.	42 FR 19059.
11. Photo File System—Interior, GS-20.	42 FR 19060.
12. Mineral Lease and Royalty Accounting Files—Interior, GS-21.	42 FR 19060.
13. Personnel Investigations Records—Interior, GS-23.	42 FR 19061.
14. Employee Work Report Edit and Individual Employee Production Rates—Interior, GS-24.	42 FR 19062.
15. Water Data Sources Directory—Interior, GS-25.	42 FR 52500.
16. National Water Data Exchange User Accounting System—Interior, GS-26.	42 FR 52501.

Additional information regarding this notice may be obtained from Mr. Reed Phillips, Jr., Director, Office of Information Resources Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-6194, or the Departmental Privacy Act Officer in that office, telephone 202-343-6191.

Dated: December 28, 1981.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

Appendix

IX. U.S. Geological Survey:

U.S. Geological Survey, National Center,
12201 Sunrise Valley Drive, Reston,
Virginia 22092.

INTERIOR/EGS-1

SYSTEM NAME:

Payroll, Attendance and Leave Records—Interior, GS-1.

SYSTEM LOCATION:

(1) Branch of Financial Management, Geological Survey, National Center, Reston, Virginia 22092. (2) Input documents supplied by all facilities of the U.S. Geological Survey (For specific addresses, contact the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Geological Survey Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, grade, step and salary; organization, retirement or FICA data as applicable; Federal, State and local tax deductions, as appropriate; IRS tax lien data; savings bond and charity deductions; regular and optional Government life insurance deductions; health insurance deduction and plan or code; cash award data, jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types; time and attendance records; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed are included only as pertinent to the individual employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq.; Title 6, GAO Policy and Procedure Manual; 31 U.S.C. 66(a); Sections 112(a) and 113 of the Budget and Accounting Procedures Act of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to (a) to issue pay to employees, and (b) distribute pay according to the directions of employees for allotments, financial institutions, savings bonds, charitable institutions and other purposes authorized. Disclosures outside the Department of the Interior may be made to: (1) Report and send tax withholdings to the Internal Revenue Service and state and local taxing authorities; (2) report and send FICA deductions to the Social Security Administration; (3) report and send withholdings for health and life insurance to the Office of Personnel Management and authorized insurance carriers; (4) report and send contributions to agents of charitable institutions; (5) report and send deductions for dues to labor unions; (6) send W-2 statements annually to taxing authorities; (7) to the U.S. Department of Justice when related to litigation or anticipated litigation; (8) of information indicating a violation or potential violation of a statute, regulation, rule, order license, to appropriate Federal, State, local or foreign agencies responsible for investigating or

prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (9) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (10) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (11) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Both machine readable and manual.

RETRIEVABILITY:

By name or social security number of employee.

SAFEGUARDS:

Storage equipment and rooms locked when not in used. Access is restricted to authorized personnel only. Computer and payroll personnel are instructed as to the need for security and confidentiality.

RETENTION AND DISPOSAL:

Retained on-site until GAO audit, then destroyed or transferred to Federal Records Center, as appropriate according to GAO fiscal records program, or GSA General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Financial Management, Geological Survey, National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written and signed request is required from anyone seeking information concerning him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access to records should be addressed to the System Manager and must meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Petitions for amendment should also be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, timekeepers and personnel records.

INTERIOR/EGS-5**SYSTEM NAME:**

Contract Files-Interior, GS-5.

SYSTEM LOCATION:

The primary location of this system of records is in the Branch of Procurement and Contracts, Geological Survey, National Center, Reston, VA 22092. These records are also maintained in several Survey administrative field offices. A listing of these locations may be obtained from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have contracts with the Geological Survey. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of contract information, from inception of requirement, through contract award, contract administration and completion of the contract. Copies of contractor and technical and cost proposals, documentation pertaining to the award, contract and miscellaneous correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 481.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is in awarding and administering contracts through their completion. Disclosure outside the Department of the Interior may be made: (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual;

(4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee; or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in manual form in file folders.

RETRIEVABILITY:

By name of individual contractor and by contract number.

SAFEGUARDS:

Proprietary technical and cost information maintained separately in locked cabinet.

RETENTION AND DISPOSAL:

Retained and disposed of according to GSA General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Policy and Procedures Section, Branch of Procurement and Contracts, Geological Survey, Department of the Interior, National Center, Reston, VA 22092.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him must be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access shall be addressed to the System Manager, signed by the requester and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information comes from the individual contractor.

INTERIOR/EGS-7**SYSTEM NAME:**

Personal Property Accountability Records—Interior-GS-7.

SYSTEM LOCATION:

(1) Branch of General Services, Geological Survey, National Center, Reston, Virginia 22092. (2)

Administrative offices in all or substantially all field locations. (For a listing of specific locations, contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Survey employees who are accountable for government owned controlled property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of assignment of an internal identification number and acknowledgement of receipt by employees. Records of transfers to other accountable employees. Inventory records containing employee social security numbers and duty stations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to: (a) Maintain control over bureau owned and controlled property; (b) to maintain up-to-date inventory of the property and to record accountability for the property. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are both manual and computerized.

RETRIEVABILITY:

By employee social security number.

SAFEGUARDS:

Access by authorized employees only.

RETENTION AND DISPOSAL:

Disposed of in accordance with GSA records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of General Services, Geological Survey, National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual employees.

INTERIOR/EGS-9**SYSTEM NAME:**

National Research Council Grants Program—Interior, GS—9.

SYSTEM LOCATION:

(1) Office of the Chief Geologist, Geologic Division, Reston, Virginia 22092. (2) National Research Council, 2101 Constitution Avenue, N.W., Washington, D.C. 20418.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for grants made through the National Research Council, who are assigned to the U.S. Geological Survey, Geologic Division under this program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, grade, title, organization, and place of birth of person being granted access. Also file of SF 171 and college transcripts for each individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

43 U.S.C. 31, et seq., 5 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to evaluate individuals being considered for grants made through the National Research Council. Disclosures outside the Department of the Interior may be made: (1) To the National Research Council for evaluation purposes; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a

violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the Statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Manual system maintained in cardex and legal files showing data on Research Associates assigned to U.S. Geological Survey, Geologic Division under this program.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records disposed of periodically as prescribed under records control system.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Geologist, U.S. Geological Survey, National Center Mail Stop 911, Reston, Virginia 22092, Phone (703) 860-6531.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority of 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation (43 CFR 2.79(c)) which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) to the extent that the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/EGS-11**SYSTEM NAME:**

Security—Interior, GS—11.

SYSTEM LOCATION:

(1) Office of the Chief Geologist, Geologic Division, Reston, Virginia 22092. (2) Central and Western Regional Offices of the Geologic Division. (Addresses may be obtained from the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Geologic Division employees who have been granted security clearances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of Security Clearance, for Division personnel; contains name, grade, organization, social security number, and place and date of birth and type of security clearance of person being granted access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10501.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to keep current records on security clearances in the Geologic Division. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Manual systems maintained in locked cardex and legal size files.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with security meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records on former employees disposed under prescribed procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief Geologist, U.S. Geological Survey, National Center, Mail Stop 911, Reston, Virginia 22092
Phone (703) 860-7429.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/EGS-12**SYSTEM NAME:**

Project Description and Work Plans and Accomplishments—Interior, GS-12.

SYSTEM LOCATION:

Budget and Program Office, Office of the Chief Geologist, U.S. Geological Survey, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Scientists who are in charge of one or more projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Project Description describes the objectives, location, and justification of the project. The Work Plans and Accomplishments is a yearly

accountability of each project's scientific progress during the past year and a work plan for the coming year.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

43 U.S.C. 31, 48, 49.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary uses of the records are (a) To track and account for the progress of various projects; (b) to develop a work plan for the next year; and (c) to keep scientists within the U.S. Geological Survey aware of the activities of the Geologic Division, either current or historic. Disclosure outside the Department of the Interior may be made (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefits; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit; (6) information from these records is provided annually to State Geological Surveys to keep them informed on current activities pertinent to their States; (7) information from these records is used to respond to various Congressional and other requests regarding the activities of the Geologic Division.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are stored in an on-line computerized data base.

RETRIEVABILITY:

Data retrievable by project number and various ad hoc methods, i.e., key work, location of investigations, latitude and longitude, and name of Project Chief.

SAFEGUARDS:

Access to data for information purpose is unrestricted; however, data can only be appended or altered by authorized personnel such as the project chief or Information System Coordinators and Data Base Administrator in the Office of the Chief Geologist, Office of Program and Budget.

RETENTION AND DISPOSAL:

Completed project records are changed in status from "active" to "historic." Data is still available online; an archiving system will probably be developed over the next two years.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief Geologist, Budget and Program Office, Office of the Chief Geologist, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

The information comes from the individuals who are in charge of one or more projects.

INTERIOR/EGS-13**SYSTEM NAME:**

Manuscript Processing-Interior, GS-13.

SYSTEM LOCATION:

(1) Office of Scientific Publications, Geologic Division, Reston, Virginia 22092. (2) Central and Western Regional offices of the Geologic Division. (Addresses may be obtained from the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Geologic Division authors of Geo-Science publications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains record by author or title on publication plans, status and location of all manuscript maps and reports in preparation or published by Geologic Division employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

43 U.S.C. 31, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to maintain knowledge of and track publication plans, status of manuscript maps and reports in preparation being entered by Geologic Division employees. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary for its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in manual form on cards.

RETRIEVABILITY:

Indexed by author and Geographic area.

SAFEGUARDS:

Maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Indefinite retention.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief, Office of Scientific Publications, Geologic Division, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Same as above. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Authors.

INTERIOR/EGS-15**SYSTEM NAME:**

Cartographic Information Customer Records-Interior, GS-15.

SYSTEM LOCATION:

(1) National Cartographic Information Center (NCIC), National Mapping Division, Geological Survey, Reston, VA 22092. (2) NCIC Field Offices (for specific locations contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested Cartographic Information directly from, or whose requests have been forwarded to the National Cartographic Information Center or its sponsored field centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, customer's inquiry, response to inquiry and appropriate accounting entries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Executive Order 3206. (2) OMB Circular A-16. (3) 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for reference by Survey and Survey contract employees in processing customer inquiries, orders, and complaints. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in manual form in file folders, correspondence recorded on microfilm, and key information recorded on magnetic tape in some instances;

RETRIEVABILITY:

Indexed by name of inquirer, cross indexed chronologically;

SAFEGUARDS:

Maintained in GS areas occupied by GS personnel during working hours with building locked and/or guarded during off hours;

RETENTION AND DISPOSAL:

Original hard copy destroyed after three years or sooner if recorded on microfilm. Indexes and microfilm maintained at least three years (longer if useful to operations or if active).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, National Cartographic Information Center, (NCIC), National Mapping Division, GS, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Customers on whom record is maintained and GS or GS contract information researchers.

INTERIOR/EGS-16**SYSTEM NAME:**

Office of Minerals Exploration (OME) Financial Assistance Applications-Interior, GS-16.

SYSTEM LOCATION:

Office of Minerals Exploration, U.S. Geological Survey, Denver Federal Center, MS 933, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for financial assistance to explore mineral deposits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information furnished by the applicant in support of a loan application including financial eligibility, rights in land to be explored, operating experience and background to conduct the proposed exploration work.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 85-701, 30 U.S.C. 642(e).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of these records is to evaluate applications for loans to conduct exploration projects. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders in metal filing cabinets.

RETRIEVABILITY:

Indexed by name of individual applicant and by docket number assigned to each application.

SAFEGUARDS:

Maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Complete file is retained until decision is reached on denial or approval. If denied or after period of contract obligation for royalty payments to the Government has expired—a period of ten years or more—file should be stripped of non technical material and placed in permanent storage. Discarded material is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Minerals Exploration, Geological Survey, U.S. Department of the Interior, Denver Federal Center, MS 933, Denver, CO 80225.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Same as the above. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Applicant on whom the file is maintained.

INTERIOR/EGS-17**SYSTEM NAME:**

Management Information System, National Mapping Division-Interior, GS-17.

SYSTEM LOCATION:

U.S. Geological Survey, National Center, Mail Stop 580, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Mapping Division employees; GS professionals (geologists, hydrologists, etc.) who conduct research and investigation for which results are published in GS reports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains records concerning production planning, scheduling costs, manpower utilization, capacity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3101, 43 U.S.C. 31, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) To control and manage publication production; (b) to accumulate costs for the purpose of billing Geological Survey Divisions. Disclosure outside the Department of the Interior may be made for: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the

issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintain in punch card and manual form.

RETRIEVABILITY:

Indexed by pertinent GS division, GS reports, phase of production.

SAFEGUARDS:

Maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Routinely disposed of as updated information is generated. Annual summaries are maintained indefinitely.

SYSTEM MASSAGER(S) AND ADDRESS:

Chief, Printing and Distribution Center, National Mapping Division, USGS, National Center, MS 580, 12201 Sunrise Valley Dr., Reston, VA 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is being maintained.

INTERIOR/EGS-20**SYSTEM NAME:**

Photo File System—Interior, GS-20.

SYSTEM LOCATION:

Office of Earth Sciences Applications, U.S. Geological Survey, National Center, Mail Stop 301, Reston, VA 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S.G.S. employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43 U.S.C. 1467.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to maintain photographs of USGS top level employees. Disclosure outside the Department of the Interior may be made: (1) To the public in presentations and publications; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

PIC cards 5 x 8.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Visual Information Services Office, Office of Earth Sciences Applications, Mail Stop 301, National Center, USGS, Reston, VA 22092.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Photographs of individuals employed by the U.S.G.S.

INTERIOR/EGS-21

SYSTEM NAME:

Mineral Lease and Royalty Accounting Files—Interior, GS-21.

SYSTEM LOCATION:

(1) U.S. Geological Survey, Conservation Division, Reston, Virginia 22092. (2) USGS Conservation Division Field Offices (for specific addresses, contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Lease or Permit Holders, and individuals who have requested statistical books. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information, are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Lease contractual terms, production, royalty, reserve and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Mineral Leasing Act of 1920, as amended, 30 U.S.C. 22, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) To manage mineral leases on public lands for which the Conservation Division is responsible; (b) to supervise the leases and permits; (c) to keep records of royalty accounts; (d) to control revenues; (e) to gather statistical data for planning and managing the mineral leasing program. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or

necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders, tab runs and information recorded on magnetic tape.

RETRIEVABILITY:

Indexed by lease number.

SAFEGUARDS:

Maintained in GS areas occupied by GS personnel during working hours with building locked and/or guarded during off hours.

RETENTION AND DISPOSAL:

Destroyed in accordance with the bureau's records disposal authority.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Conservation Division, GS, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

'Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Lessees, permittees and individuals on whom records are maintained.

INTERIOR/EGS-23

SYSTEM NAME:

Personnel Investigations Records—Interior, GS-23.

SYSTEM LOCATION:

Security Office, Office of the Director, USGS National Center, 12201 Sunrise Valley Drive, Reston, VA 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current USGS employees who (a) have been granted access to classified information; (b) are selected applicants considered for access to classified information; (c) are selected applicants

found unsuitable for access to classified information because unfavorable information was developed during the conduct of their security investigations; (d) are selected employees fulfilling sensitive or critical-sensitive positions not requiring access to classified information; and (e) are selected employees fulfilling non-sensitive positions whose employment suitability investigation disclosed unfavorable or questionable information. (2) Former USGS employees who (a) have been granted access to classified information, and (b) unfavorable or questionable information was disclosed as a result of a security or employment suitability investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for any violations against the law; reports of interviews with present and former supervisors, co-workers, associates, educators, etc.; reports about the qualifications of an individual for a specific position, reports of inquiries with or from law enforcement agencies, employers, and educational institutions attended; foreign affiliations which may affect his or her loyalty to the United States; and other information developed from the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive order 10450, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of these records and files may be disclosed and used as follows: (1) To designated officials, officers, and employees of the USGS, DOI, OPM, DOE, CIA, FBI, and all other agencies and departments of the Federal Government who in the performance of their duties have an interest in the individual for employment purposes, including a security clearance or access determination, and a need to evaluate qualifications, suitability, and loyalty to the United States Government. (2) To all law enforcement agencies, whether Federal, State, or local, who are charged with the responsibility of investigating or prosecuting any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute, or by regulation, rule, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All investigative records are maintained in file folders stored in Class 5 security containers having manipulation resistant combination locks.

RETRIEVABILITY:

All records are indexed by surname in alphabetical order.

SAFEGUARDS:

The card index for this system of records is contained in a metal cabinet with a secure key locking device; the key is secured in a Class 5 security container. All containers and cabinets are further secured in a windowless room having one doorway which is secured by a key locking device. Both the key locking devices and combinations to the Class 5 security containers are under stringent security controls.

RETENTION AND DISPOSAL:

(a) The OPM investigative files are destroyed within 90 days after receipt by USGS. (b) All information supplementing the above OPM investigative files, originated by the USGS, is retained for two years following termination of awarded security clearance or employment, whichever occurs first, and is then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer/Alternate Security Officer, USGS, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Written inquiries to the System Manager are required and must include the following information in order to positively identify the individual whose records are requested: (1) full name, (2) date of birth, (3) place of birth, (4) any available information regarding the type of record requested. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to and contesting the records from the above System Manager. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Same as above. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the following categories of sources: (1) Applications and other personnel and security forms furnished by the individual. (2) Results

of investigations and other record material furnished by Federal agencies. (3) Notices of personnel actions initiated within the USGS.

INTERIOR/EGS-24

SYSTEM NAME:

Employee Work Report Edit and Individual Employee Production Rates—Interior, GS-24.

SYSTEM LOCATION:

(1) U.S. Geological Survey, National Mapping Division, National Center, Stop 511, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (2) Eastern Mapping Center, National Mapping Division, National Center, Stop 567, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (3) Mid-Continent Mapping Center, National Mapping Division, USGS Building, 1400 Independence Road, Rolla, Missouri 65401. (4) Rocky Mountain Mapping Center, National Mapping Division, Box 25046, Stop 510, Denver, Colorado 80225. (5) Western Mapping Center, National Mapping Division, 345 Middlefield Road, Menlo Park, California 94025.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Production employees in Mapping Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, social security number, cost and production rates, hours, and miles by individual production employee in each of the five Mapping Centers listed above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43 U.S.C. 31, 1467.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for analysis of cost and production rate for individual employees and for units of National Mapping Division. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies, responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual;

(4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefits; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on punched cards, mag-tape, and disc.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access restricted to authorized persons only from locked storage.

RETENTION AND DISPOSAL:

Records maintained for a period of 1 to 5 years and then destroyed in accordance with existing regulations for this class of records.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Chief, Branch of Management Systems and Reports, Office of Program Management, National Mapping Division, National Center, Stop 511, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (2) Chief, Program Management Branch, Eastern Mapping Center, National Mapping Division, National Center, Stop 567, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (3) Chief, Branch of Plans and Production, Mid-Continent Mapping Center, National Mapping Division, USGS Building, 1400 Independence Road, Rolla, Missouri 65401. (4) Chief, Branch of Plans and Production, Rocky Mountain Mapping Center, National Mapping Division, Box 25046, Stop 510, Denver Federal Center, Denver, Colorado 80225. (5) Chief, Branch of Plans and Production, Western Mapping Center, National Mapping Division, 345 Middlefield Road, Menlo Park, California 94025.

NOTIFICATION PROCEDURE:

A request for notification shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager. See 43 CFR 2.61 for submission requirements.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager. See 43 CFR 2.71 for submission requirements.

RECORD SOURCE CATEGORIES:

Data from work report prepared by individuals.

INTERIOR/EGS-25

SYSTEM NAME:

Water Data Sources Directory—Interior, GS-25

SYSTEM LOCATION:

(1) National Water Data Exchange (NAWDEX), Water Resources Division, U.S. Geological Survey, Reston, VA 22092. (2) NAWDEX Assistance Centers (for addresses contact the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are sources of water or water-related data and services and to whom requesters can be referred to obtain water data held or services provided by them.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains, name, address and telephone number of individuals who are sources of water or water-related data or information and other water-related services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Water Data Sources Directory is maintained under the authority of 43 U.S.C. 31 (28 Stat. 398), OMB Cir. A-67, and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referenced by (1) Geological Survey and Geological Survey contractor personnel in processing requests for water or water-related data, (2) Personnel of Local Assistance Centers listed in Appendix A of the National Water Data Exchange (NAWDEX) including Geological Survey personnel and personnel of state-governmental, local-governmental, other public, and private organizations serving as NAWDEX Local Assistance Centers in processing requests for water or water-related data, and (3) Users of NAWDEX including Federal, state-governmental, local-governmental, other public, and private organizations and private citizens in identifying sources of water and water-related data or services and transmitting requests for the acquisition of desired data or services. (4) Transfer to the U.S. Department of Justice in the

event of litigation or potential litigation involving the records or the subject matter of the records. (5) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether Federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computerized form on punch cards, magnetic disks or magnetic tape, printed lists, and a published directory available for public dissemination;

RETRIEVABILITY:

Retrievable by name, a unique identifier, geographical identifiers, and types of data or services available from the individual;

SAFEGUARDS:

Computer files are password protected to prevent unauthorized use, and all entry of information is made by Geological Survey personnel of the NAWDEX Program Office only;

RETENTION AND DISPOSAL:

Records retained indefinitely unless cancelled by a reported individual.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, National Water Data Exchange, U.S. Geological Survey, 421 National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Any individual may inquire about information stored on themselves by submitting a written request to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access should be in writing addressed to the System Manager. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment must be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information stored may be obtained from the individual on whom the record

is maintained, organizations, or other individuals, with whom the individual identified in the record is associated, NAWDEX personnel, and NAWDEX-contracted information researchers.

INTERIOR/EGS-26

SYSTEM NAME:

National Water Data Exchange User Accounting System—interior, GS-26

SYSTEM LOCATION:

(1) National Water Data Exchange (NAWDEX), Water Resources Division, U.S. Geological Survey, Reston, VA 22092. (2) NAWDEX Assistance Centers (for addresses contact the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested water data from or to whom information has been sent by the National Water Data Exchange and its Local Assistance Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, and telephone number, types of data requested, type of response made, types and volumes of data provided and appropriate cost accounting procedures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The User Accounting System is maintained under authority of 43 U.S.C. 31 (Stat. 398), OMB Cir. A-67, and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) By Geological Survey and Geological Survey contractor personnel in processing user requests for data, (2) By personnel of Local Assistance Centers of the National Water Data Exchange (NAWDEX) including Geological Survey personnel and personnel of state-government, local-governmental, other public, and private organizations serving as NAWDEX Local Assistance Centers in processing user requests for data, (3) By the personnel in (1) and (2) above for verification of responses referred to other organizations for data acquisition, program planning and accounting, cost effectiveness computations, and follow-up on quality of service provided. (4) Transfer to the U.S. Department of Justice in the event of litigation or potential litigation involving the records or the subject matter of the records. (5) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in

nature, to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders and on magnetic computer storage devices;

RETRIEVABILITY:

Indexed by geographic location of requester and cross-indexed by name of requester, in chronological order, and by request record number;

SAFEGUARDS:

Maintained in areas occupied by NAWDEX personnel during working hours with building locked and/or guarded during off-duty hours. Computer files are password protected to restrict unauthorized use;

RETENTION AND DISPOSAL:

Original hard copy destroyed after a period not to exceed five years. Computerized file copy destroyed after a period not to exceed five years. All records may be retained longer, with permission of subject individual requester transactions.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, National Water Data Exchange (NAWDEX), U.S. Geological Survey, 421 National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

A written and signed request to the System Manager stating that the requester seeks information concerning records pertaining to himself or herself is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment must be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained or individuals or organization requesting data be sent to

the individual on whom the record is maintained.

[FR Doc. 82-326 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: January 4, 1981.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

A. (1) Agriland Trucking Cooperative Association, Incorporated.

(2) 2700 Esquire Dr., Boise, Idaho 83704.

(3) 2700 Esquire Dr., Boise, ID 83704.

(4) R. J. Redmond, 2700 Esquire Dr., Boise, ID 83704.

B. (1) Dairymen, Inc.

(2) 10140 Linn Station Rd., Louisville, KY 40223.

(3) a. Georgia Division—5304 Panola Industrial Blvd., Decatur, GA 30031.

b. Gulf Div.—P.O. Box 667 Enon Hwy. Franklinton, LA 70438.

c. Kyana Div.—P.O. Box 18118, Louisville, KY 40218.

d. Old Dominion Div.—P.O. Box 27522, Richmond, VA 23261.

e. Southeast Div.—P.O. Box 1099, Bristol, VA 24201.

(4) Mr. Beverly Williams, 10140 Linn Station Rd., Louisville, KY 40223.

C. (1) Farmers Union Grain Terminal Association.

(2) P.O. Box 43594, St. Paul, MN 55164.

(3) Albany, GA; Olathe, KS; Albert Lea, MN; St. Paul, MN; Mankato, MN; Sioux Falls, SD; Waukesha, WI; Navasota, TX (For street addresses, contact James Niemczyk, P.O. Box 43594, St. Paul, MN 55164).

(4) James Niemczyk, P.O. Box 43594, St. Paul, MN 55164.

D. (1) Indiana Farm Bureau Cooperative Association, Inc.

(2) 120 East Market St., Indianapolis, IN 46204.

(3) 120 East Market St., Indianapolis, IN 46204.

(4) Charles Shaw, 120 East Market St., Indianapolis, IN 46204.

E. (1) Moyer Trucking Company, Inc.

(2) P.O. Box 639, Norco, CA 91760.

(3) Calle Regina, Monterrey, N.L. Mexico.

(4) Obleser Garcia, Calle Regina #446, Col. Regina, Monterrey, N.L. Mexico.

F. (1) Neillsville Co-Op Transport.

(2) Box 30, Highways 73 and 95, Neillsville, WI 54456.

(3) Box 30, Highways 73 & 95, Neillsville, WI 54456.

(4) L. H. Fankhauser, Box 30, Neillsville, WI 54456.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-349 Filed 1-6-82; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 216]

Motor Carriers; Restriction Removals; Decision-Notice

Decided: December 31, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or

broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 28956 (Sub-26)X, filed December 14, 1981. Applicant: McKAY'S TRUCK LINE, INC., P.O. Box 634, Albany, OR 97321. Representative: Lawrence V. Smart, 419 N.W. 23rd Ave., Portland, OR 97210. Lead and Subs-16, 18, 20F, 21F, and 24F certificates; (1) Lead, remove all restrictions in the general commodities authority "except classes A and B explosives, household goods, and commodities in bulk"; (2) broaden to: (a) Sub-16, "food and related products" from dry feed and dry feed ingredients; (b) Subs-18 and 21, "pulp, paper and related products" from paper and paper products; (c) Sub-20, "chemicals and related products" from magnesium flux; and (d) Sub-24, "waste or scrap materials not identified by industry producing" from radioactive waste material; (3) remove restrictions requiring shipments to be "in bulk, in tank or hopper type vehicles," and "in bags and barrels"; (4) in the regular-route portion of the lead, authorize service at all intermediate points; (5) in the irregular-route authorities, broaden plantsites and points to countywide: lead, Multnomah, Clackamas and Washington Counties, OR (points within 3 miles of Portland); Subs-18 and 20, Linn and Benton Counties, OR (plantsite near Albany, and facilities at Millersburg); (6) Sub-21, remove the restriction limiting transportation of traffic to that originating at or destined to the facilities of a named company and change to radial authority between named facilities at points in 5 states, and, points in the 5 states; and (7) Sub-20, change from one-way to radial authority.

MC 92950 (Sub-3)X, filed November 20, 1981. Applicant: WOLVERTON DRAY LINE, INC., P.O. Box 36, Foxhome, MN 56543. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108. Lead and Subs 1F and 2F certificates: (A) Remove all exceptions from the general commodities description except classes A and B explosives, lead; and (B)

Broaden (1) from (a) new furniture and doors to "furniture and fixtures and building materials", Sub 1F; and (b) vegetable oils, vegetable meal and by-products thereof to "food and related products", Sub 2F; and (2) to county-wide authority: (a) Wilkin and Clay Counties, MN and Richland County, ND (points within 6 miles of Wolverton, MN, including Wolverton, MN) Lead irregular route portion; (b) Wilkin County, MN (Wolverton), Sub 1F; and (c) Cass County, ND (Riverside), Sub 2F.

MC 116457 (Sub-54)X, filed November 24, 1981. Applicant: GENERAL TRANSPORTATION, INC., P.O. Box 6484, Phoenix, AZ 85005. Representative: Andrew V. Baylor, 337 East Elm Street, Phoenix, AZ 85012. Subs 2, 9, 11, 12, 15, 19, 20, 21, 24, 27, 28, 31F, 34F, 35F, 36F, 42F, 43F, 45F, 46F, 47F, 48F, 50F and 53F, broaden: (1) Sub 2, from lumber, wood piling, poles, posts, ties and timbers to "lumber or wood products"; roofing and roofing products, Sub 9, and from composition and prepared roofing, Sub II, to "building materials"; from lumber to "lumber or wood products", from particle board, and brick, to "building materials"; Sub 12, from lumber; Sub 15, from lumber, particle board, and boards or sheets made from ground wood, to "lumber or wood products"; Sub 19, from lumber, forest products and particle board, to "lumber and wood products, and forest products", from lumber, plywood, paneling and pressed board of ground wood, to "lumber and wood products"; Sub 20, brick, structural, glazed tile, fueling, ceramic floor and wall tile, fire clay, and commodities used in the installation thereof, to "clay, concrete, glass or stone products"; Sub 21, from stone, to "building materials", from lumber, to "lumber and wood products", from brick, to "building materials", from boards or sheets made of ground wood, to "lumber and wood products"; Sub 24, from forest products, timbers, guard-rail posts, ties and crossarms, to "forest products and lumber and wood products"; Sub 27, from logs, materials, lumber, hardware and accessories used in the erection of log building and poles, railings and posts used in the erection of fences, to "building materials and lumber and wood products"; Sub 28, from compressed wood fireplace logs and compressed wood brickettes, to "lumber and wood products"; Sub 31F, from refractories and commodities used in the installation of refractories, to "clay, concrete, glass or stone products"; Sub 34F, from wastepaper cardboard, waste newsprint and wastepaper products, for reuse or recycling, to "waste or scrap materials"; Sub 35F,

from prefabricated exterior wall panels, to "lumber and wood products and metal products"; Sub 36F, from gypsum wallboard, gypsum lath, gypsum wallboard systems, gypsum products and plaster, to "building materials"; Sub 42F, from prefabricated metal buildings, knocked down and component parts, materials and accessories for prefabricated metal building, to "metal products"; Sub 43F, from roofing, roofing materials insulation materials, roofing supplies and products, to "building materials"; Sub 45F, from lumber, lumber products, wood products, composition board, wood mouldings and forest products, to "lumber and wood products"; Sub 46F, from insulation materials, polystyrene products, urethane products, insulated building panels, paint, wood fibre products, to "building materials and lumber and wood products"; Sub 47F from, gypsum wallboard systems, gypsum products, plastic products and tools, to "building materials"; Sub 48F from (1) such commodities as are dealt in by wholesale, retail, chain grocery and feed business houses, (2) materials, ingredients, and supplies used in the manufacture, distribution and sale of the commodities in (1) above, (3) feeds, (4) salt (except in bulk), (5) fertilizer, in containers, to "such commodities as are dealt in by wholesale, retail, chain grocery and feed business houses"; Sub 50F from (1) gypsum products, plaster products, to "building materials", Sub 53F from (1) pipe and pipe fittings, and materials and supplies used in the installation of pipe and pipe fittings and (2) construction materials to "building and construction materials" and (2) remove facilities limitation and/or broaden city to county-wide authority, (a) El Paso, TX to El Paso County; Stroud, OK to Creek County, Sub 2; (b) Dallas and Houston, TX to Dallas and Harris Counties, Sub 9; (c) Pie Town, Alamogordo and Reserve, NM to Catron and Otero Counties, Sub 12; (d) Medford, Ashland, White City, Wolf Creek, Grants Pass, Glendale, Riddle, Dillard, Roseburg, Remote, Cottage Grove, Eugene, Portland, Tillamook, OR to Coos, Douglas, Jackson, Lane, Multnomah, Josephine and Tillamook Counties; Redding, Ukiah, Eureka, Susanville and Hoopa, CA to Lassen, Mendocino and Shasta Counties, Sub 21; (e) Spanish Fork, UT to Utah County, Sub 42; (f) Denver, CO to Adams, Arapahoe, Gilpin and Jefferson Counties and Flagstaff, AZ to Coconino County, Sub 48; (g) Tracey, CA to San Joaquin County, Sub 52, (3) from ports of entry at named points to all ports of entry in AZ, Sub 21 and in AZ and TX, Sub 2; (4)

remove originating at and/or destined to, in bulk, in tank vehicles restrictions in various subs; (5) remove restrictions against (a) lumber from named in points to AZ, Sub 19, (b) transportation of shipments from Salt Lake City and Harrisville, UT to OR, Sub 20, (c) ceramic floor and wall tile from TX to NM, Sub 20, and (d) transportation to points in the Los Angeles and Los Angeles Harbor Commercial Zones, Sub 21; (e) transportation from CO to UT, Sub 43; and (6) to radial authority.

MC 119864 (Sub-78)X, filed December 18, 1981. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perryburg, OH 43551. Representative: Brian D. Craig (same address as applicant). Sub-No. 77: Eliminate the restriction against: (1) Commodities in bulk; (2) service on specified commodities from or to specified points and between named points in IA, IL, IN, KY, MI, MO, OH, and WI; (3) Eliminate restrictions against service named facilities; and (4) delete originating at or destined to restriction, in its authority to transport such commodities as are dealt in or used by grocery and food business houses between points 8 midwestern States.

MC 127019 (Sub-18)X, filed December 18, 1981. Applicant: LA RUE LAMB TRUCKING, INC., P.O. Box 374, Myton, UT 84052. Representative: Irene Warr, Suite 280, 311 South State Street, Salt Lake City, UT 84111. Subs-3, 7, and 14F certificates, broaden: (1) Subs-3 and 7, to "ores and minerals" from granulated gilsonite (natural asphaltum), in bulk, and from gilsonite in bulk; Sub-14, to "clay, concrete, glass or stone products" from cement, in bulk; (2) Sub-14, to Potter County, TX (facilities near Bushland); (3) Sub-3, remove exception against service to Craig, CO; and (4) replace one-way operations with radial service.

MC 138701 (Sub-9)X, filed December 18, 1981. Applicant: G. D. & K., INC., 500 West Main Street, Wyckoff, NJ 07481. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Subs 4F and 5F permits. Broaden to between points in the U.S., under continuing contract(s) with named shippers.

MC 146938 (Sub-3)X, filed December 21, 1981. Applicant: TRI-J TRUCKING, INC., 1608 Whipple Road, Union City, CA 94587. Representative: Eldon M. Johnson, 650 California Street, Ste. 2808, San Francisco, CA 94108. Sub-No. 1F permit, broaden (1) to: "Food and related products" from foodstuffs, except commodities in bulk in tank vehicles, and unfrozen bakery goods, in parts 2 and 3; and (2) to "between points

in the U.S.," under continuing contract(s) with the named shippers in Parts 1, 2 and 3.

MC 148520 (Sub-4)X, filed November 25, 1981. Applicant: M & R TRUCKING, INC., 114 Hardenburgh Ave., Demarest, NJ 07627. Representative: Frank J. Carley, P.O. Box 487, Ashland, VA 23005. Sub 2F permit broaden (1) to "food and related products" from meat, packing-house products and commodities used by packing houses and (2) to between points in the United States, under continuing contract(s).

MC 151195 (Sub-1)X, filed October 28, 1981, previously noticed in the Federal Register of November 9, 1981, republished as follows: Applicant: DUWAINE HELLICKSON, P.O. Box 146, Ostrander, MN 55961. Representative: Val M. Higgins, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402. Applicant seeks to remove a facilities restriction at and broaden Ashland, KY to the Counties of Boyd and Greenup, KY, Wayne, WV, and Lawrence, OH. The purpose of the republication is to note the omitted Counties of Wayne, WV, Greenup, KY, and Lawrence, OH which are embraced by the Ashland, KY commercial zone.

[FR Doc. 82-348 Filed 1-6-82; 8:45 am]

BILLING CODE 7035-01-M

Rail Carriers; Section 5b Application No. 12; National Railroad Freight Committee—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of proposed rate bureau agreement.

SUMMARY: An agreement was filed November 2, 1981 on behalf of the members of the National Railroad Freight Committee for approval under the provisions of 49 U.S.C. 10706(a). This interterritorial agreement relates to procedures for the joint consideration or establishment of uniform classification for freight via rail, as well as rules, ratings, and descriptions for packaging and loading. Approval of this agreement must be based upon a finding that the making and carrying out of the agreement will further the transportation policy of 49 U.S.C. 10101(a). The agreement was filed allegedly in compliance with 49 CFR 1331.3. The complete application may be inspected at the Office of the Commission in Washington, DC.

DATES: Comments should be filed by February 22, 1982, following publication of this notice in the Federal Register.

Any reply will be due 20 days after the comment deadline.

ADDRESS: Comments should be addressed to: Interstate Commerce Commission, Office of Proceedings, Room 5354, 12th and Constitution Avenue, N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Jane Mackall, (202) 275-7656.

SUMMARY INFORMATION: In 1953, the Commission approved an agreement relating to packaging, loading and classifying freight transported by rail. *Section 5a Application No. 26, Railroad Interterritorial Agreement, 287 I.C.C. 701 (1953)*. In 1976, Congress passed the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, and the Commission issued its findings in an investigation of the rate bureau system. *Ex Parte No. 297, Rate Bureau Investigation, 351 I.C.C., 477 (1976)*. An amended interterritorial agreement was then filed for review. *Section 5b Application No. 5, Railroad Interterritorial Agreement*. Interim approval for this agreement was granted by an order of October 26, 1976.

In 1980, Congress passed the Staggers Rail Act of 1980, Pub. L. 96-448, which significantly altered the rate bureau framework. On January 21, 1981, the Commission served a decision interpreting 49 U.S.C. 10706(a). *Section 5b Application No. 2, Western Railroads—Agreement, 364 I.C.C. 635 (1981)*.

The National Railroad Freight Committee has now filed a new agreement to replace Application No. 5. It submits that the scope and purpose of this agreement are of nationwide application and importance. The need for uniformity in classification, packaging and shipping is critical for the movement of rail freight. It claims that applying the decision in *Section 5b Application No. 2, supra*, to its activities would be inappropriate. It has filed this new agreement to resolve existing confusion and questions of applicability of that decision to this bureau's operations.

In considering an agreement for approval, the standard of review involves the resolution of issues such as: (1) whether the proposed agreement would enhance one or more transportation goals, (2) whether the advantages of the agreement override other considerations such as the anticompetitive nature of the agreement, and (3) whether the agreement is necessary or whether the objectives of the parties could be accomplished instead by some other means. *Lower Lakes Coal Demurrage—Agreement, 359 I.C.C. 363, 368 (1978)*.

Any interested person may participate in this proceeding. We have already received several supporting comments from various shippers. We particularly seek comment on the effects of *Consolidated Rail Corp.—Eliminate Dk. No. 28300, 364 I.C.C. 615 (1981)*, on the uniform classification of rail freight. We also ask for comments as to the applicability, if any, of 49 U.S.C. 10706(a)(3)(A) (i), (ii), and (iii) to the scope of this agreement. In other words, must classification (which may affect the level of a rate) adhere to the Staggers Act restrictions on collective consideration?

The decision will not significantly affect either the quality of the human environment or energy resources.

(49 U.S.C. 10706)

Dated: December 29, 1981.

By the Commission, Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-350 Filed 1-6-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 27)]

Rail Carriers; Baltimore and Ohio Railroad Co. Abandonment Between Flora and Sangamon Junction in Clay, Effingham, Fayette, Shelby, Christian and Sangamon Counties, IL; Notice of Findings

The Commission has issued a certificate authorizing Baltimore and Ohio Railroad Company to abandon its 103.29 mile rail line between Flora (Station 3961 + 17) and Sangamon Junction (Station 9415 + 49) in Clay, Effingham, Fayette, Shelby, Christian and Sangamon Counties, IL. The abandonment certificate will be effective February 8, 1982 unless the Commission also finds that: (1) a financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Dated: December 21, 1981.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-351 Filed 1-6-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.120]

Mission Directors, Asia; Redelegation of Authority Regarding Grant Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Directors in the below-listed countries the authorities to:

(1) Sign grants to foreign nongovernmental nonprofit organization provided that the life-of-grant does not exceed \$5 million; and any amendments that may not increase by more than ten percent (10%) the total initially authorized by the Mission Director for the life-of-project; and

(2) Make advance payments under grants to foreign nongovernmental nonprofit organizations; provided That Project Identification Documents for grant projects are submitted for review and approval to the ASIA Bureau in AID/W prior to project approval by the Mission and that the respective Mission Director has consulted with the Regional Legal Advisor and Technical Advisors as appropriate.

Countries

Bangladesh	Pakistan
India	Philippines
Indonesia	Sri Lanka
Nepal	Thailand

The authority herein delegated shall not be redelegated but may be exercised by authorized persons who are performing the functions of the Mission Director in an acting capacity.

The authority redelegated herein shall be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise the functions herein redelegated.

This redelegation of authority is effective on the date of signature.

Dated: November 4, 1981.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82-333 Filed 1-6-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.121]**Mission Directors and AID Principal Officers, Africa; Redelegation of Authority Regarding Grant Functions**

Pursuant to the authority delegated to me as Director, Office of Contract Management under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Directors or A.I.D. Principal Officers in the below-listed countries the authorities to:

(1) Sign grants to foreign nongovernmental nonprofit organizations provided that the amount does not exceed \$5 million, and amendments thereto having a cumulative value up to ten percent (10%) of the original grant; and

(2) Make advance payments under grants to foreign nongovernmental nonprofit organizations; provided That Project Identification Documents for grant projects are submitted for review and approval to the AFRICA Bureau in AID/W prior to project approval by the Mission and that the respective Mission Director or A.I.D. Principal Officer has consulted with the Regional Legal Advisor and Technical Advisors as appropriate.

Countries

Cameroon	Senegal
Chad	Somalia
Ghana	Sudan
Kenya	Swaziland
Liberia	Tanzania
Mali	Upper Volta
Mauritania	Zaire
Niger	

The authority herein delegated shall not be redelegated but may be exercised by authorized persons who are performing the functions of the Mission Director or A.I.D. Principal Officer in an acting capacity.

The authority redelegated herein shall be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise the functions herein redelegated.

This redelegation of authority is effective on the date of signature.

Dated: November 4, 1981.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82-334 Filed 1-6-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.122]**Mission Directors and AID Principal Officers, Latin America/Caribbean; Redelegation of Authority Regarding Grant Functions**

Pursuant to the authority delegated to me as Director, Office of Contract Management under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Directors or A.I.D. Principal Officers in the below-listed countries the authorities to:

(1) Sign grants to foreign nongovernmental nonprofit organizations provided that the amount does not exceed \$5 million, and amendments, including those effecting an increase of the authorized amount of not to exceed ten percent (10%) of the grant; and

(2) Make advance payments under grants to foreign nongovernmental nonprofit organizations; provided That Project Identification Documents, Project Papers or other comparable documents for project authorization, are submitted for review and approval to the LAC Bureau in AID/W prior to project approval by the Mission and that the respective Mission Director or A.I.D. Principal Officer has consulted with the Regional Legal Advisor or GC/LAC, and Technical Advisors as appropriate.

Countries:

Bolivia	Panama
Costa Rica	Peru
Ecuador	Regional Development
Guatemala	Officer of the
Guyana	Caribbean (RDO/C)
Haiti	Santo Domingo
Jamaica	San Salvador
Nicaragua	

Paraguay, Mission Director, and the Regional Office for Central American Programs (ROCAP), Director, are authorized to sign grants to foreign nongovernmental nonprofit organizations provided the life-of-grant does not exceed \$500,000, and make advance payments, provided the respective Mission Director or Director has consulted with the Regional Legal Advisor or GC/LAC, as appropriate.

The authority herein delegated shall not be redelegated but may be exercised by authorized persons who are performing the functions of the Mission

Director or A.I.D. Principal Officer in an acting capacity.

The authority redelegated herein shall be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise the functions herein redelegated.

This redelegation of authority is effective on the date of signature.

Dated: November 4, 1981.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82-335 Filed 1-6-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.123]**Mission Directors and AID Principal Officers, Near East Redelegation of Authority Regarding Grant Functions**

Pursuant to the authority delegated to me as Director, Office of Contract Management under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Directors or A.I.D. Principal Officers in the below-listed countries the authorities to:

(1) Sign grants to foreign nongovernmental nonprofit organizations provided that the amount does not exceed \$5 million, and amendments thereto having a cumulative value up to ten percent (10%) of the original grant; and

(2) Make advance payments under grants to foreign nongovernmental nonprofit organizations; provided That Project Identification documents, Project Papers or other comparable documents for project authorization, are submitted for review and approval to the Near East Bureau in AID/W prior to project approval by the Mission and that the respective Mission Director or A.I.D. Principal Officer has consulted with the Mission or AID/W Legal Advisor and Technical Advisors as appropriate.

Countries

Egypt	Tunisia
Jordan	Yemen
Morocco	

Lebanon and Portugal A.I.D. Principal Officers are authorized to sign grants to foreign nongovernmental nonprofit organizations provided the amount does not exceed \$500,000, and make advance payments, provided the respective A.I.D.

Principal Officer has prior approval from Near East Bureau, AID/W, and has consulted with the Mission or AID/W Legal Advisor and Technical Advisors as appropriate.

The authority herein delegated shall not be redelegated but may be exercised by authorized persons who are performing the functions of the Mission Director or A.I.D. Principal Officer in an acting capacity.

The authority redelegated herein shall be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise the functions herein redelegated.

This redelegation of authority is effective on the date of signature.

Dated: November 4, 1981.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82-336 Filed 1-6-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 81-1]

Burroughs Wellcome Co.; Approval of Registration

On July 26, 1979 the Drug Enforcement Administration (DEA) gave notice that Burroughs Wellcome Co. (Burroughs), P.O. Box 1887, U.S. 11-13 North, Greenville, North Carolina 27834, had applied for registration as an importer and bulk manufacturer of certain controlled substances. The notices concerning these applications were published in the Federal Register, Volume 44, at page 43821. Penick Corporation, Merck & Co., Inc., and Mallinckrodt, Inc., filed objections to Burroughs' applications and requested, pursuant to 21 CFR 1301.43, that DEA conduct a hearing on the issues raised thereby. The objecting companies were entitled to a hearing by virtue of being registered manufacturers of the same controlled substances which Burroughs was seeking to manufacture.

On January 15, 1981, the Deputy Administrator of the DEA referred this matter to Administrative Law Judge Francis L. Young. The Deputy Administrator noted that DEA's Office of Compliance and Regulatory Affairs had analyzed Burroughs' applications and had found that the firm demonstrated an ability to meet the essential requirements of Sections 303,

1002 and 1008 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 823, 952 and 958. The Deputy Administrator requested that the Administrative Law Judge conduct the hearing in this matter and that he report his findings to the Administrator.

A preliminary prehearing conference was held in this matter on March 6, 1981. As of that time, the list of participants had been expanded to include agency counsel, representatives of McNeilab, Inc., Lee Laboratories and Argon Research Corporation, as well as the applicant and the three original objecting parties. Pursuant to a protective order entered by the Administrative Law Judge, Burroughs was required to provide copies of its registration documents to each of the other participants and a schedule for the filing of additional, and more particularized, statements of objection was established.

On April 15, 1981, the Administrator published his final order in *McNeilab, Inc.*, Docket No. 78-13. Shortly thereafter, Merck & Co. and Millinckrodt, Inc. filed petitions for review of the Administrator's decision. So as not to unnecessarily relitigate issues previously decided by the Administrator, Burroughs and the three objecting parties entered into a stipulation in which they agreed, essentially, to be governed by the outcome of the appellate review of the *McNeilab* decision. The Administrative Law Judge approved the stipulation on July 1, 1981, and further proceedings were stayed indefinitely. The appeals of the Administrator's decision proved to be short-lived. Mallinckrodt's petition for review was dismissed on August 12, 1981, and Merck's was dismissed on November 3, 1981, just one week prior to the date on which the U.S. Court of Appeals for the Eighth Circuit was to hear oral argument. With the dismissal of all appeals, the *McNeilab* decision became final and, pursuant to their agreement with Burroughs, the three objecting parties withdrew their requests for a hearing on Burroughs' applications. The Administrative Law Judge entered an order terminating proceedings in this matter on December 8, 1981.

The Acting Administrator of the Drug Enforcement Administration has reviewed this matter and finds that the applications of Burroughs Wellcome Co. are consistent with the public interest and with United States obligations under international treaties, conventions and protocols now in effect. See, *McNeilab, Inc.*, Docket No. 78-13, 46 FR 22089 (April 15, 1981); *Millinckrodt, Inc.*, Docket No. 80-7, 46 FR 24747 (May 1, 1981).

Therefore, under the authority vested in the Attorney General by 21 U.S.C. 823 and 958, as redelegated in 28 CFR 0.100, the Acting Administrator hereby orders that the applications of Burroughs Wellcome Co. be granted, contingent upon the successful completion of all necessary actions outlined in the applications and the ultimate approval of those actions by the Drug Enforcement Administration.

This order is effective January 7, 1982.

Dated: December 30, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-398 Filed 1-6-82; 8:45 am]

BILLING CODE 4410-09-M

Lee Laboratories, Inc.; Approval of Registration

On January 24, 1979, the Drug Enforcement Administration gave notice that Lee Laboratories, Inc., 2999 Frontage Road, Petersburg, Virginia 23803, had applied for registration as an importer and bulk manufacturer of certain controlled substances. The notices concerning these applications were published in the Federal Register, Volume 44, at pages 5025 and 5026.

Pursuant to Title 21, Code of Federal Regulations, § 1301.43, Mallinckrodt, Inc., Penick Corporation and Merck & Co., Inc., filed objections to Lee Laboratories' applications and requested that the Drug Enforcement Administration conduct a hearing on the issues raised thereby. The objecting companies were entitled to a hearing by virtue of being manufacturers of the same controlled substances which Lee Laboratories had applied to manufacture. Each of the objecting companies has since withdrawn its objections and requests for a hearing.

The Drug Enforcement Administration's Office of Compliance and Regulatory Affairs has analyzed Lee Laboratories' applications and has found that the company has demonstrated an ability to meet the essential requirements of Sections 303, 1002 and 1008 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, Title 21, United States Code, Sections 823, 952 and 958.

The Acting Administrator of the Drug Enforcement Administration finds that the applications of Lee Laboratories, Inc., are consistent with the public interest and with the United States obligations under international treaties, conventions and protocols now in effect. See, *McNeilab, Inc.*, Docket No. 78-13, 46 FR 22089 (April 15, 1981);

Mallinckrodt, Inc., Docket No. 80-7, 46 FR 24747 (May 1, 1981). Therefore, under the authority vested in the Attorney General by 21 U.S.C. 823 and 958, as redelegated in 28 CFR 0.100, the Acting Administrator hereby orders that the applications of Lee Laboratories, Inc., be granted, contingent upon the successful completion of all necessary actions outlined in the applications and the ultimate approval of those actions by the Drug Enforcement Administration.

This order is effective January 7, 1982.

Dated: December 30, 1981.

Francis M. Mullen, Jr.,
Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-399 Filed 1-6-82; 8:45 am]

BILLING CODE 4410-09-M

McNeilab, Inc.; Approval of Registration

On July 2, 1981, the Drug Enforcement Administration gave notice that McNeilab, Inc., 803 East Fourth Street, Wilmington, Delaware 19801, had applied for registration as an importer and bulk manufacturer of certain controlled substances. The notices concerning these applications were published in the *Federal Register*, Volume 46, at pages 34732 and 34733.

Pursuant to Title 21, Code of Federal Regulations, § 1301.43, Penick Corporation, Merck & Co., Inc., and the Burroughs Wellcome Company filed objections to McNeilab's applications and requested that the Drug Enforcement Administration conduct a hearing on the issues raised thereby. The objecting companies were entitled to a hearing by virtue of being manufacturers of the same controlled substances which McNeilab had applied to manufacture or by virtue of being applicants for similar registrations. Each of the objecting companies has since withdrawn its objections and requests for a hearing.

The Drug Enforcement Administration's Office of Compliance and Regulatory Affairs has analyzed McNeilab's applications and has found that the company has demonstrated an ability to meet the essential requirements of Sections 303, 1002 and 1008 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, Title 21, United States Code, Sections 823, 952 and 958.

The Acting Administrator of the Drug Enforcement Administration finds that the applications of McNeilab, Inc., are consistent with the public interest and with United States obligations under international treaties, conventions and

protocols now in effect. See, *McNeilab, Inc.*, Docket No. 78-13, 46 FR 22089 (April 15, 1981); *Mallinckrodt, Inc.*, Docket No. 80-7, 46 FR 24747 (May 1, 1981).

Therefore, under the authority vested in the Attorney General by 21 U.S.C. 823 and 958, as redelegated in 28 CFR 0.100, the Acting Administrator hereby orders that the applications of McNeilab, Inc., be granted, contingent upon the successful completion of all necessary actions outlined in the applications and the ultimate approval of those actions by the Drug Enforcement Administration.

This order is effective January 7, 1982.

Dated: December 30, 1981.

Francis M. Mullen, Jr.,
Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-397 Filed 1-6-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 20, 1981, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 1467, State Road 2, Mayaquez, Puerto Rico 00708, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene (9273).

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than February 8, 1982.

Dated: December 29, 1981.

Francis M. Mullen, Jr.,
Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-400 Filed 1-6-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Panel (Production: Film/Video); National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Production: Film/Video) to the National Council on the Arts will be held on January 25-27, 1982, from 9:00 a.m.-5:30 p.m., in the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-344 Filed 1-6-82; 8:45 am]

BILLING CODE 7537-01-M

Music Panel (Recording); National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Recording) to the National Council on the Arts will be held on January 19, 1982, from 9:30 a.m.-6:00 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the

determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts, December 22, 1981.

[FR Doc. 82-345 Filed 1-6-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Responses: Availability

Recommendation Responses from—
Federal Aviation Administration: Dec. 21, A-81-132 through -138: The simulation program at terminal facilities with automated radar is being upgraded; radar controller "skill level" demonstration concept is being studied; separate alarms are not needed for low-altitude/conflict alerts; ARTS III facilities being redesigned to provide individual audio signals, will not redesign low-altitude/conflict alert system at ARTS III facilities to make visual alert unique; FAA Handbooks 7110.65B and 7210.3F are adequate; unable to dictate standard equipment configuration; sees merit of video recording and playback system, but must compete with higher priority safety equipment needs. *Dec. 21, A-79-21 and 22:* No additional AD action will be taken. *Dec. 21, A-78-36:* Issued Change No. 4, to FAA Order 8130.2B, Sec. 5, para. 132 d&e. *Dec. 21, A-80-41:* Has issued Change 44 to FAA Order 8340.1A. *Dec. 21, A-81-14:* Existing 14 CFR 121 and 135 operations regulations adequately address fuel requirements for normal/abnormal occurrences. *Dec. 21, A-81-63:* Has revised Pratt & Whitney JT9D engine manual. *Dec. 21, A-115 through -118:* Suggests review of A-81-113 and -114; is reexamining 14 CFR 25 environmental icing criteria; plans no further action on -117; will correct inconsistent definitions in Sec. 91.209(c) and 135.227(c).

Federal Railroad Administration: Dec. 7, R-80-36: Additional Federal regulations are duplicative/unnecessary. *Dec. 14, R-78-43:* Minimum gauge allowed in curve track (49 CFR 213.53) is appropriate. *Dec. 14, R-80-36:* Projected costs far outweigh benefits of automatic block system mechanism to indicate bridge displacement. *Dec. 14, R-80-31 and 32:* Will study safe construction, maintenance, and operation of passenger equipment according to Sec. 202 of Federal Railroad Safety Act of 1970; sees no need for regulations on degree of deviations for external rail defects. *Dec. 14, I-80-2:* Will coordinate with AAR in its "Integrity of

Damaged Tank Cars" program. *Dec. 14, R-80-6 and -7:* Studies underway to produce model guidelines to industry/public agencies on emergency response/wreck clearing procedures; will work with AAR to prepare emergency response guidelines. *Dec. 14, R-71-47, R-76-29, -30, -24, and -28:* Has initiated several joint management/labor projects to address emergency procedures training; promulgated 49 CFR Part 221—Rear End Marking Devices—Passenger, Commuter, and Freight Trains; will not promulgate regulations on emergency lighting and communications systems in passenger trains. *Dec. 21, R-80-54:* 49 CFR Part 221.15(c)3 does not need changes. *Dec. 22, R-80-52 and -53:* Will continue striving for full compliance with regulations; will not amend 49 CFR 217.9. *Dec. 22, R-81-34 and -35:* Has integrated ICG track specified and ICG is repairing defects; will not issue regulations on acceptable rail wear. *Dec. 22, R-77-33:* Will amend 49 CFR 213.53 to include maximum rate of gauge change; will not issue regulations on rapid change in gauge. *Dec. 22, R-72-14 and R-78-42:* Fencing of rights-of-way not way to prevent trespasser fatalities, will pursue public awareness/education programs.

Note.—Single copies of responses are free on written request, identified by recommendation number, to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

B. Sharon Flemming,

Director, Executive Secretariat.

January 1, 1982.

[FR Doc. 82-302 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-58-M

NATIVE HAWAIIANS STUDY COMMISSION

Notice of Public Hearings

Notice is hereby given that the Native Hawaiians Study Commission will hold a meeting and a series of statewide public hearings to receive testimony regarding "the culture, needs and concerns of Native Hawaiians," in accordance with the following schedule:

Date and meeting/place

- Jan. 9—**INFORMATIONAL MEETING/HONOLULU, O'AHU**
8:00 a.m.: Auditorium, Kamehameha Schools, Kapalama Heights
8:30 p.m.: Reconvene Meeting at State Capitol, Room 328
- Jan. 10—**HEARING/KAUNAKAKAI, MOLOKA'I**
2:00 p.m. to 6:00 p.m.: Mitchell Pau'ole Center, County Administration Complex, Ailoa Street, Kaunakakai
- Jan. 11—**HEARING/KAHALUI, MAUI**
7:00 p.m.: Student Lounge, Maui Community College, 310 Kaahumau Avenue
- Jan. 12—**HEARING/KAMUELA, HAWAII**
2:00 p.m. to 5:00 p.m.: Thelma Parker Library, The Parker School

HEARING/HILO, HAWAII

- 7:30 p.m.: Waiakea High School Cafeteria, 2420 Kilauea Avenue
- Jan. 13—**HEARING/LIHU'E, KAUAI**
7:00 p.m.: Wilcox Elementary School Cafeteria, 4319 Hardy, Lihu'e
- Jan. 14—**HEARING/HONOLULU, O'AHU**
7:00 p.m.: Key Project, 47-536 Kamehameha Hwy., Kahaluu, O'ahu
- Jan. 15—**HEARING/WAI'ANA'E, O'AHU**
10:00 a.m. to 1:00 p.m.: Wai'anae High School 85-251 Farrington Hwy.
- HEARING/HONOLULU, O'AHU**
7:00 p.m.: Kapalama Schools, 1601 N. School Street

The following guidelines will be used to conduct the hearings:

1. A sign-up sheet at each hearing will determine the order of presentation by those wishing to testify;
2. Written testimony and ten copies of each presentation would be appreciated, but is not necessary from those wishing to testify;
3. Testimony may be given in either Hawaiian or English, and a translator will be present at each hearing;
4. Oral testimony should be limited to a ten-minute presentation by each person wishing to testify, but there will be no limit on the number of pieces or length of written testimony which may be submitted; and
5. Questions may be asked only by the members of the Commission at the conclusion of any presentation of those wishing to testify.

As authorized by P.L. 96-595, adopted by the Congress of the United States on December 20, 1980, these hearings are to encourage public participation and comment for a draft report of findings to be circulated by September 23, 1982, and a final report and recommendations to be submitted to Congress by June 23, 1983.

The Commission is composed of 9 members, appointed by President Reagan, as follows: Representative Kina'u Boyd Kamali'i (Chairwoman), Minority Leader, Hawaii House of Representatives; Stephen P. Shipley (Vice Chairman), U.S. Department of Interior; Carl A. Anderson, U.S. Department of Health and Human Services; Winona K. D. Beamer, Kamehameha Schools; H. Rodger Betts, County of Maui; Carol E. Dinkins, U.S. Department of Justice; James C. Handley, U.S. Department of Agriculture; Diane K. Morales, U.S. Department of Interior; Glenn R. Schleede, formerly, Office of Management and Budget.

Further information may be obtained by calling Mary Lyon-Allen at 808-548-7560.

Mary Lyon-Allen,
Executive Director.

[FR Doc. 82-561 Filed 1-6-82; 12:11 pm]

BILLING CODE 6820-BE-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

Carolina Power & Light Co. (H. B. Robinson, Unit 2); Granting of Exemption

I

The Carolina Power and Light Company (the licensee) is the holder of Operating License No. DPR-23 (the license) which authorize operation of the H. B. Robinson, Unit No. 2 located in Darlington County, South Carolina at steady state reactor core power levels not in excess of 2300 megawatts thermal (rated power). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment. Appendix J was published on February 14, 1973 and in August 1975 each licensee was requested to review the extent to which each facility met the requirements.

On August 7, 1975, Carolina Power and Light Company (CP&L) submitted their evaluation of the H. B. Robinson Unit No. 2 (Robinson 2). The CP&L submittal for Robinson-2 was supplemented by letter dated September 21, 1977. In these submittals, CP&L requested that certain testing frequencies be exempted from Appendix J requirements. The Franklin Research Center, as consultant to the NRR, has reviewed the licensee's submittals and prepared a Technical Evaluation Report on their findings. The NRC staff has reviewed this report and, in its Safety Evaluation Report dated August 5, 1981, the staff has concurred in the report's bases and findings. The exemption

request found to be acceptable is as follows:

CP&L requested an exemption from the requirements of section III.D.2.b.iii of Appendix J relating to testing the integrity of air locks after they have been opened during periods when containment integrity is required by the plant's Technical Specifications. This section requires that the air lock shall be tested within 3 days after being opened, or at least every 3 days if the air locks are opened frequently. Air lock door seal testing shall not be substituted for the 6-month test of the entire air lock as required by section III.D.2.b.i.

For certain types of reactors frequent usage of air locks is needed. Testing of air locks after each opening may represent a situation which results in a more rapid degradation of the critical isolation barriers being tested. In addition, experience obtained since 1969 from testing of airlocks indicates that only a few airlock tests have resulted in greater than allowable leakage rates. The licensee, CP&L, applies continuous pressurization at a pressure of P_a (pressure related to the design basis accident) between the double-gasketed seals of the Robinson-2 airlock. This is an acceptable method to detect door seal leakage while eliminating the impracticalities and possible reduction in reliability associated with full airlock testing at P_a after each opening.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the exemption request identified above.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 28th day of December 1981.

For the Nuclear Regulatory Commission,
Darrell G. Eisenhut,
Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-401 Filed 1-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., et. al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 81 to Provisional Operating License No. DPR-21, issued to Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Generating Station Unit No. 1 (the facility) located in New London County, Connecticut. This amendment is effective as of its date of issuance.

The amendment revises the Appendix A Technical Specifications for the inservice surveillance of snubbers (shock absorbers).

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 6, 1981, (2) Amendment No. 81 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of December, 1981.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-402 Filed 1-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR-22 issued to Northern States Power Company which revises the Technical Specifications for operation of the Monticello Nuclear Generating Plant located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications which pertain to inservice inspection requirements for snubbers.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 9, 1981, (2) Amendment No. 9 to License No. DPR-22, and (3) the Commission's letter to Northern States Power Company dated December 28, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulator Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 28th day of December 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-403 Filed 1-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas & Electric Co.; Granting an Exemption From the Requirements of 10 CFR 20

The U.S. Nuclear Regulatory Commission (the Commission) has granted an exemption from requirements of 10 CFR 20 "Standards for Protection Against Radiation," to the Pacific Gas and Electric Company (the licensee).

This exemption related to the definition of "calendar quarter" provided in 10 CFR 20.3(a)(4). The basis for this action is set forth in the Commission's Letter of Exemption and related Safety Evaluation dated December 28, 1981.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's request dated October 28, 1981 and (2) the Commission's Letter of Exemption and related Safety Evaluation dated December 28, 1981. Items (1) and (2) are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Humboldt County Library, 636#F Street, Eureka, California 95501. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of December 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-404 Filed 1-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-311]

Public Service Electric & Gas Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has

issued Amendment No. 4 to Facility Operating License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised license conditions for operation of the Salem Nuclear Generating Station, Unit No 2. (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises the required completion dates for certain TMI-related items in the areas of Post-Accident Sampling, Additional Accident Monitoring Instrumentation, and Inadequate Core Cooling Instruments.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 7, 1981, (2) Amendment No. 4 to License No. DPR-75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of December 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-405 Filed 1-6-82; 8:45 am]

BILLING CODE 7590-01-M

Documentation of Models Used in Analysis of High-Level Waste Disposal

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of draft technical position.

SUMMARY: The High-Level Waste Licensing Management Branch, Division of Waste Management, has published NUREG-0856, "Draft Technical Position on Documentation of Models." This report presents guidelines for the preparation of documentation on computer programs used in support of a license application for high-level waste disposal.

Comments on the draft technical position are encouraged. Such comments will be considered in the preparation of the final technical position.

DATE: Comments are due May 1, 1982.

ADDRESSES: Copies of NUREG-0856 are available from the National Technical Information Service, Springfield, VA 22161. Written comments should be sent to Michael J. Bell, Chief, High-Level Waste Licensing Management Branch, Division of Waste Management, Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR INFORMATION CONTACT:

Stewart A. Silling, High-Level Waste Licensing Management Branch, Division of Waste Management, Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 427-4173.

Dated at Silver Spring, Maryland, this 28th day of December, 1981.

Malcolm R. Knapp,

High-Level Waste Licensing Management Branch, Division of Waste Management.

[FR Doc. 82-406 Filed 1-6-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18380; (SR-Amex-81-22)]

The American Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change

December 31, 1981.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, N.Y. 10006, submitted on November 30, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Sections 151, 152 and 334 of the Amex Company Guide to revise the exchange's listing fee schedules, and to change from July to January the month

in which annual fees are due and payable.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-18309, December 4, 1981) and by publication in the *Federal Register* (46 FR 60702, December 11, 1981). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof, in that the proposed change in the annual billing date from July to January of each year is intended to place the billing year on a calendar year basis to facilitate financial planning. Accelerated treatment is necessary in order to enable the exchange to begin the proposed calendar year billings on January 1, 1982.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 82-337 Filed 1-6-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 81-106]

Port Access Route Study Results

AGENCY: Coast Guard, DOT.

ACTION: Notice of study results.

SUMMARY: The purpose of this notice is to publish the results of the Port Access Route study announced on April 16, 1979, in the *Federal Register* (44 FR 22543) and modified on January 31, 1980 (45 FR 7026). Only the results for study areas 1 to 4 are published in this notice. Generally, these areas include the coast of Maine, New Hampshire, Massachusetts and Rhode Island. No new routing measures are proposed for study areas 1 to 4. However, two minor modifications are recommended for the

existing traffic separation scheme in the approaches to Narragansett Bay, RI, and Buzzards Bay, MA. Also, it is recommended that a precautionary area be designated in the area located between the existing Nantucket to Ambrose and Boston Harbor traffic separation schemes.

Background

The Ports and Waterways Safety Act (PWSA) (Pub. L. 95-474; 92 Stat. 1473, 33 U.S.C. 1223) mandated that the Coast Guard "undertake a study of the potential traffic density and the need for safe access routes." The *Federal Register* for April 16, 1979 (44 FR 22543), announced the scope of the study and included a description of each area to be studied. Coast Guard district staff officers were assigned responsibility for executing the study; and it has been conducted under the standards contained in sections 4 and 5 of the PWSA. As a result of the study, appropriate ships' routing measures, such as safety fairways and traffic separation schemes, may be proposed. Where the study indicates that no new routing measures are to be designated in an area, notice of such a conclusion is to be published in the *Federal Register*. However, areas for which results are published may be studied again in the future as changes in conditions warrant re-evaluation.

Results for areas 5, 5a and 6 (New York and Delaware approaches and Long Island Sound) were published in 46 FR 49035; for areas 13 to 20 (coast of South Carolina, Georgia and Florida) in 46 FR 48376; for area 21 (Gulf of Mexico) in 46 FR 49989; for areas 26 to 29 (coast of Oregon and Washington) in 46 FR 59686; and for areas 30 to 32 (Alaska) in 46 FR 61049. Results for the remaining study areas (7 to 12 along the Mid-Atlantic coast and 22 to 25 along California) will be published in a future *Federal Register*.

The First Coast Guard District performed the study for areas 1 to 4. Geographically, these areas are described as follows:

AREA 1: Northeast coast of Maine.

From the coast seaward to the 1800 meter curve or to the limit of Canadian jurisdiction, from the Canadian/United States border to a line bearing 120° T from Great Duck Island Light (44°08.5' N, 68°14.8' W).

AREA 2: Includes Searsport, Bucksport, and Portland, Maine, and Portsmouth, New Hampshire.

From the coast seaward to the 1800 meter curve or to the limit of Canadian jurisdiction, from a line bearing 120° T from Great Duck Island Light (44°08.5' N, 68°14.8' W) to a line bearing 110° T as it

passes through Isle of Shoals Light (42°58.0' N, 70°37.4' W).

AREA 3: Includes Boston, Massachusetts.

From the coast seaward to the 1800 meter curve or to the limit of Canadian jurisdiction, from a line bearing 110° T as it passes through Isle of Shoals Light (42°58.0' N, 70°37.4' W) to a line bearing 180° T from Chatham Light (41°40.3' N, 69°57.0' W).

AREA 4: Includes Fall River and New Bedford, Massachusetts, and Providence, Rhode Island.

Enclosed by the coast and a line bearing 180° T from Chatham Light (41°40.3' N, 69°57.0' W) to 40°40.0' N latitude; thence a line bearing 270° T to 71°51.5' W longitude; thence a line bearing 000° T to Watch Hill Light (41°18.2' N, 71°51.5' W).

Findings and Conclusions

An offshore traffic separation scheme (TSS) is an internationally recognized routing measure which is intended to separate opposing streams of vessel traffic by the establishment of traffic lanes. It can be compared to a highway for vessels. Although use of a TSS is often voluntary, once a vessel is within the scheme the operator is governed by Rule 10 of the International Regulations for Preventing Collisions at Sea (72 COLREGS) and is obligated to obey the directional designations. A TSS receives international recognition when it is adopted by the Inter-Governmental Maritime Organization (IMCO).

Currently, off the coast of New England, four IMCO-adopted TSS's are established for traffic management: (a) "In the Approaches to Portland, Maine;" (b) "In the Approaches to Boston, Massachusetts;" (c) "In the Approaches to Narragansett Bay, Rhode Island, and Buzzards Bay, Massachusetts;" and (d) the "Eastern Approach" to New York off Nantucket (Nantucket to Ambrose Sea Lanes). Also adopted by IMCO in this vicinity is an "Area to be Avoided" which warns the mariner that the Nantucket Shoal area is hazardous. These routing measures were evaluated during the Port Access Route study to determine their continued contribution to navigation safety.

The study of Areas 1-4 was primarily focused upon three factors: the volume of traffic following certain traditional routes, fishing vessels in established fishing grounds, and potential placement of mobile and fixed structures or platforms during oil exploration and production in or near these routes and fishing grounds. After extensive data gathering and consultations with navigation and shipping interests, oil companies, fishing industries and federal, state and local agencies the Coast Guard determined the following:

a. *Portland:* The existing traffic separation scheme "In the Approaches

to Portland, Maine," is adequate for the traditional trade routes and amount of traffic to and from the port of Portland.

b. *Boston and Nantucket:* The existing traffic separation scheme "In the Approach to Boston, Massachusetts," is adequate for the traditional trade routes and amount of traffic to and from the Port of Boston.

There is no present conflict between access to the Port of Boston and oil exploration activities. These activities are only known to the extent of estimates based on geophysical information and on preliminary test drilling in a portion of study Area 3. Future developments may occur which could cause the proliferation of mobile and/or fixed structures and platforms. If such were the case, it may become necessary to designate additional access systems in Area 3 at a future date.

Fisheries were fully considered in the study of Area 3. Since no additional access systems are proposed, no potential conflicting activity in proximity of known fishing grounds has been created.

As a result of the findings of the study of Area 3, the Coast Guard has determined that a "precautionary area" located between the Nantucket to Ambrose traffic lanes and the Boston Harbor traffic lanes is needed to facilitate safe navigation where these two Traffic Separation Schemes meet. This is in addition to the "Area to be Avoided" mentioned above. This measure will more readily identify to mariners that extreme care should be exercised when navigating in the area. Accordingly, the Coast Guard will propose to IMCO that such a precautionary area be adopted for the following reasons:

(1) Information on vessel traffic density in this area indicates that approximately 26 vessels per day transit this area (including fishing vessels). This high density of vessel traffic intersecting at the entrances of two existing traffic separation schemes presents a potential for collision therefore warranting the establishment of the proposed precautionary area.

(2) The nature of vessel traffic transiting the area is primarily vessels (tankers, freighters, container vessels) entering or existing the two TSS's operating between Boston and New York. Vessels arriving from foreign ports enroute to Boston or New York also enter the appropriate TSS in this area. Fishing vessels are known to fish in this area.

(3) A greater degree of safety can be achieved with the establishment of a precautionary area. The visible display of a precautionary area on appropriate

charts re-emphasizes the need for greater care in navigation and alertness in watchkeeping.

(4) This precautionary area would not alter existing patterns of traffic flow in the area. Fishing would continue unrestricted. It will, however, emphasize the need for care in navigation where these two routing schemes converge.

(5) This precautionary area will provide an added measure of protection for the personnel aboard the Nantucket Light Vessel which is involved in numerous close passage situations each year.

The description of the proposed precautionary area to be designated in the area between the existing Nantucket to Ambrose and Boston traffic separation schemes, is as follows:

An area bounded to the east by a circle of radius 15.5 miles, centered upon geographical position 40°35.0' N, 69°00.0' W, intersected by the traffic separation schemes "In the Approaches to Boston, Massachusetts" and the "Eastern Approach" off Nantucket at the following points:

Latitude	Longitude
(1) 40°50.3' N	68°56.6' W
(2) 40°23.7' N	69°13.8' W

and bounded to the west by a line drawn between these two traffic separation schemes from 40°48.0' N, 69°03.0' W, to 40°36.8' N, 69°14.0' W.

c. *Narragansett Bay and Buzzards Bay:* (1) The Port Access Route study identified a need to make a minor modification to the existing traffic separation scheme "In the Approaches to Narragansett Bay, Rhode Island, and Buzzards Bay, Massachusetts." Pilots and Masters interviewed during the study expressed the general opinion that TSS's are desirable in that they promote safety by making known the normal shipping route for large vessels. Foreign ships entering port can more readily determine the proper and safe course to make their initial landfall. Ships' masters are now accustomed to utilizing the TSS "In the Approaches to Narragansett Bay, Rhode Island and Buzzards Bay, Massachusetts." This was given due consideration before recommending a modification.

When contacted during the study, pilots universally expressed dissatisfaction over the northeast end of the Buzzards Bay traffic lanes. Immediately after Buoy #1 (LLNR 626) outbound traffic must make a sharp turn to starboard to enter the outbound lane. A potentially dangerous crossing situation could arise with an outbound vessel cutting off an inbound vessel while the outbound vessel maneuvers to enter the outbound traffic lane.

It is recommended that the Buzzards Bay approach be shortened by 4 miles to enable outbound traffic to enter the outbound traffic lane without making the sharp turn now necessary. The proposed change is as follows:

Buzzards Bay Approach

(a) A separation zone, one mile wide, is centered upon the following geographical positions:

Latitude	Longitude
(1) 41°10.15' N	71°19.15' W
(2) 41°21.8' N	71°07.1' W

(b) A traffic lane, one mile wide, is established on each side of the separation zone. The main traffic directions are: 038°-218°.

(2) Currently, a restricted area is established in the Narragansett Bay approach. This restricted area is controlled by the Naval Underwater System Center (NUSC). It is used by the Navy as a torpedo testing range two or three times per year. The existing restricted area does not encompass the whole area in which the operation takes place. The Center has requested that the restricted area be enlarged to include the entire separation zone. The proposed change is as follows:

Restricted Area

Note.—"A restricted area, two miles wide, extending from the southern limit of the Narragansett Bay approach traffic separation zone to latitude 41°24.7' N has been established.

"The restricted area will only be closed to vessel traffic by the Naval Underwater System Center during periods of daylight and optimum weather conditions for torpedo range usage. The closing of the restricted area will be indicated by the activation of a white strobe light mounted on Brenton Reef Light and controlled by a naval vessel supporting the torpedo range activities. There would be no vessel restrictions expected during inclement weather or when the torpedo range is not in use."

Implementation

In order to implement the above proposals, including the change to the TSS lane, the change to the separation zone restriction, and the new precautionary area, it will be necessary to apply to the Inter-Governmental Maritime Consultative Organization (IMCO) for adoption and international recognition of the changes. It is expected that applications for these changes will be submitted early in 1982. Adoption by the Maritime Safety Committee of IMCO may take nine months. No amendment to a routing system can become effective earlier than four months after IMCO adoption.

FOR FURTHER INFORMATION CONTACT:

Mr. Christopher Young, Office of Marine Environment and Systems (G-WWM-2), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202) 426-4958 between 7:30 a.m. and 4:30 p.m. Monday through Thursday, except holidays.

Dated: December 28, 1981.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-183 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-14-M

[CGD 81-105]

Qualification Of Schlumberger Technology Corporation As A Citizen Of The United States

Notice is given that pursuant to 45 CFR 67.23-7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1), Schlumberger Technology Corporation of 100 Macco Boulevard, Sugar Land, Texas 77478, incorporated under the laws of the State of Texas, did on December 3, 1981, file with the Commandant, United States Coast Guard, in duplicate, an oath for qualification as a citizen of the United States following the forms of oath prescribed in Form CG-1260.

The oath shows that:

(a) A majority of the officers and directors of the corporations are citizens of the United States;

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations, on December 16, 1981, issued to Schlumberger Technology Corporation, a certificate of compliance as provided for in 46 CFR 67.23-7. This certificate and any authorization granted thereunder will expire three years from December 16, 1981, unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23-7.

Dated: December 28, 1981.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82-184 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Airport Traffic Control Tower at Augusta, Ga.; Reduction Of Hours

Notice is hereby given that on or about January 10, 1982, the Augusta, Georgia Airport Traffic Control Tower will be permanently closed each day from 11 p.m. to 7 a.m. local time. This information will be reflected in forthcoming issues of the Airman's Information Manual.

Issued in East Point, Georgia, on December 24, 1981.

Jonathan Howe,

Director, Southern Region.

[FR Doc. 82-103 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-13-M

Traffic Alert and Collision Avoidance System (TCAS) Conference

The Department of Transportation hereby announces a Traffic Alert and Collision Avoidance System (TCAS) Conference. This 2-day conference will commence at 10:30 a.m. on January 11, 1982, in the Third Floor Auditorium of FOB 10A, 800 Independence Avenue SW., Washington, D.C.

The purpose of this conference is to present recent technical results from the Federal Aviation Administration development program and to discuss these results and program plans with conference attendees. This information exchange is intended to support current activities to develop Minimum Operational Performance Standards for TCAS and aid the aviation community in the preparation of comments on the Draft National Aviation Standard for TCAS to be published in the Federal Register in January.

TCAS is intended to satisfy the operational need for an airborne separation assurance service and to ensure compatibility with all elements of the National Airspace System. Its operation does not depend upon the existence of any of these other elements except Air Traffic Control Radar Beacon System (ATCRBS) transponders with altitude encoders or Mode S transponders with altitude encoders in other aircraft.

Although the meeting is open to the public (space permitting) there will be a registration fee of \$5.00 to cover

handouts and refreshments for the 2-day conference.

Further information concerning the conference may be obtained from the Federal Aviation Administration, Systems Research and Development Service, Executive Staff, ARD-10, Washington, D.C. 20591, telephone 202-426-3548.

A. P. Albrecht,

Associate Administrator for Engineering and Development.

[FR Doc. 82-218 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-81-33-]

Petitions For Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for

exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before January 27, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 29, 1981.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22472	Jerry T. Dennis	14 CFR § 61.161(b)	To permit petitioner to obtain an airline transport pilot certificate with a rotorcraft rating not limited to visual flight rules even though he does not have at least 1,200 hours of flight time as a pilot within the last 8 years.
22461	Cessna Aircraft Co.	14 CFR §§ 45.25(b) and 45.29(b)	To allow the use of 12-inch registration markings on the fuselage side that extend beyond the stabilizer leading edge and also allow 10-inch markings on the engine nacelles on Cessna Models 500, 550, 501, and 551 airplanes.
19441	Pratt & Whitney Aircraft Group	14 CFR §§ 33.7(c)(16) and (17)	To permit type certification of the Pratt & Whitney Model 2000 engine without establishing operating limitations regarding rotor windmilling rotational r.p.m. and time for first overhaul.
22469	Parks College of Saint Louis University	14 CFR Part 141, Appendices A, C, D, F	To permit petitioner to train certain of its students to a performance standard without meeting the prescribed minimum flight-time requirements.
20314	Flight Training Devices (FTD)	14 CFR §§ 61.63(d)(2) and 61.157(d)(1)	To permit petitioner's trainees to complete a practical test, for the issuance of a type rating to be added to any grade of pilot certificate that includes the items and procedures for testing, in an airplane simulator although FTD does not have an operating certificate under Part 121.
22523	Mobil Oil Exploration & Producing Southeast	14 CFR § 91.23(a)(3)	To permit petitioner to have a minimum of 30-minute fuel reserve for its helicopter operations rather than the required 45-minute reserve.
22473	Henson Aviation, Inc. and Ransome Airlines, Inc.	14 CFR §§ 93.123, 93.125 and 93.129	To permit the petitioners to operate area navigation system-equipped DeHavilland DHC-7 aircraft in RNAV and MLS operations in test proving flights at Washington National Airport outside of the FAR reservation restrictions.
19165	Executive Jet Aviation, Inc.	14 CFR § 135.89(b)(3)	Extension of Exemption No. 2801A which permits petitioner to operate its Learjet aircraft up to and including FL 410 without requiring at least one pilot to wear and use an oxygen mask at all times above FL 350. <i>Partial Grant Dec. 10, 1981.</i>
22100	Britt Airways, Inc.	14 CFR § 91.73(a)	To permit petitioner to operate its aircraft, in the event of failure of the position light system, with the strobe light system until arrival at a maintenance base. <i>Denied Dec. 11, 1981.</i>
19174	Boeing Commercial Airplane Company	14 CFR § 91.32(b)(1)(ii)	Extension of Exemption 2796 which permits operation of petitioner's B-747 aircraft up to and including FL 451 without requiring one pilot to wear and use an oxygen mask at all times above FL 410. <i>Granted Dec. 15, 1981.</i>
21448	U.S. Jet Aviation, Inc.	14 CFR § 135.89(b)(3)	To amend Exemption 3299 to add a Falcon-10 aircraft to the exemption. The present exemption permits petitioner to operate its Learjet aircraft to FL 410 without requiring at least one pilot to wear and use an oxygen mask at all times when operating above FL 350. <i>Partial Grant Dec. 16, 1981.</i>

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22193.....	North Dakota State Aeronautics Commission.....	14 CFR § 61.109(b)(2) and Part 141, Appendix A, Paragraph 4(b)(1).	To permit petitioner and any other fixed-base aviation operator offering student pilot flight training in North Dakota to use eight all-weather airports, in North Dakota during winter months, for the 10-hour cross-country solo requirement. The distances between airports, in some instances, would be less than 100 nautical miles, but substantially greater than 50 nautical miles separation. <i>Partial Grant Dec. 16, 1981.</i>
22278.....	Combs Airways, Inc. d.b.a. Combs Freightair.....	14 CFR § 121.61(c)(1).....	To allow petitioner to employ Mr. Gary H. Smith as its Director of Maintenance even though he does not meet the requirement of 5 years of experience in the maintenance of large aircraft. He has been employed in the maintenance of large aircraft since March 1979. <i>Granted Dec. 21, 1981.</i>
15585.....	Cathay Pacific Airways Limited.....	14 CFR portions of Parts 21, 61 and 91.....	To permit petitioner to continue to operate three U.S.-registered L-1011 aircraft leased from Eastern Air Lines, Inc., and to use the FAA-approved master minimum equipment list. <i>Granted Dec. 18, 1981.</i>

[FR Doc. 82-128 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket No. S-707]

**American President Lines, Ltd.,
Application for Amendment of
Contractual Service Descriptions To
Allow Loading U.S. Cargo at the
Persian Gulf-Gulf of Oman in Line A
Extension Service and To Authorize
Vessels Operating in Line B Service To
Carry Cargo Between Washington-
Oregon and Guam; Show Cause Notice**

Notice is hereby given that American President Lines, Ltd. has filed an application dated April 7, 1981, as amended by letter dated December 23, 1981, to amend its present Operating-Differential Subsidy Agreement, Contract MA/MSB-417, so as to (1) eliminate the bar to loading U.S. cargo at the Persian Gulf-Gulf of Oman in Line A Extension service and (2) authorize vessels operating in Line B service to carry cargo between Washington-Oregon and Guam.

APL's Line A Extension service description requires a minimum of 18 and a maximum of 28 Line A sailings (California to Japan, Hong Kong, Philippines, Taiwan, Korea, Vietnam, Cambodia, Thailand) to serve Indonesia, Malaysia or Singapore with privilege ports in the Bay of Bengal area, west coast of India, Pakistan and the Persian Gulf-Gulf of Oman (not to load U.S. cargo at the Persian Gulf-Gulf of Oman). APL requests the deletion of the last parenthetical phrase to allow loading U.S. cargo at the Persian Gulf-Gulf of Oman.

APL's Line B service description requires a minimum of 54 and a maximum of 80 sailings between a port or ports in Washington-Oregon and Japan, Korea, Taiwan, Hong Kong, Philippines, Vietnam, Cambodia, or Thailand with privileged ports in China, U.S.S.R. in Asia, Brunei, Alaska and

British Columbia (both only for overseas carriage). APL proposes to add to the list of privilege service, the following:

"Guam, to provide service between Washington-Oregon and Guam, only." The application does not include service between Guam and foreign ports on the Operator's Line B service.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 7300-B, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

Information available to the Maritime Administration indicates that no U.S.-flag operator (1) offers service between California and the Persian Gulf-Gulf of Oman or (2) offers refrigerated service between Washington-Oregon and Guam, the principal liftings of the applicant being expected to be refrigerated cargoes.

Interested parties are hereby given an opportunity to show cause why the Maritime Subsidy Board should not find that section 605(c) of the Merchant Marine Act, 1936, as amended (Act) is not a bar to the proposed amendment of the contractual services as described above.

Therefore, any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20590 by the close of business on January 14, 1982.

All allegations of factual issues which a party wishes the Board to consider shall include: (1) a clear and concise statement of the issues raised; and (2) the grounds upon which such allegations rest in such detail as to permit the Board to determine the exact nature of the allegations.

In responding to this Notice, intervenors should provide answers to the following specific questions:

1. How long has service been offered?
2. What vessels (barges) were/are employed on the service (and what are their characteristics)?
3. How many voyages were made on the service during 1979, 1980, and 1981 by the vessels cited in answer to question 2?
4. How much cargo space (breakbulk, container TEU's, reefer) was made available?
5. How much cargo was carried (breakbulk, container TEU's, reefer)?
6. How much cargo was commercial and how much military or premium rated preference?
7. What are the proposed cargo carryings for the future?
8. Is the service scheduled or by inducement?
9. If the service is scheduled, what is the frequency of service?
10. Is the service wholly or partly a transshipment arrangement?
11. How much additional time do transshipment arrangements add to the service?
12. If APL is approved for service, to what extent do you expect it will diminish your projected carryings?

The Board will consider the submissions of all interested parties and will determine the disposition to be made of the matters hereby noticed, including, at the discretion of the Board, the ordering of an evidentiary hearing or other administrative process.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS))

By Order of the Maritime Administrator.

Date: December 31, 1981.

Robert J. Patton, Jr.,
Secretary.

[FR Doc. 82-321 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-01-M

National Highway Traffic Safety Administration

Federal Motor Vehicle Safety Standards; Interpretation Regarding Preemption and Pre-Sale State Enforcement of Safety Standards

This notice responds to a request by the Truck Safety Equipment Institute (TSEI) and the Safety Helmet Council of America (SHCA) for the issuance of an opinion on the issue of whether State safety approval programs are preempted by operation of the National Traffic and Motor Vehicle Safety Act and the agency's issuance of Federal Motor Vehicle Safety Standards (FMVSS) to the extent that those programs seek to enforce safety standards identical to the FMVSS against new motor vehicles or motor vehicle equipment, i.e., ones that have not yet been sold to consumers.

Of immediate and particular concern to these organizations are the approval requirements of the Louisiana motorcycle rider helmet use statute which becomes effective January 1, 1982. After that date, a helmet may not be manufactured, sold, or distributed within Louisiana unless the helmet is of a type and specification approved by the State Department of Public Safety. This requirement will apply to all helmets regardless of whether they are certified as complying with FMVSS 218, Motorcycle helmets. Under the regulations implementing the Louisiana statute, approval for helmets must first be obtained from the American Association of Motor Vehicle Administrators (AAMVA). To obtain that organization's approval, manufacturers must pay an approval fee and submit a test report from an AAMVA-approved laboratory. If the AAMVA so directs, the manufacturer must also bear the cost of providing product samples or test photographs.

It is the opinion of the agency that the States are preempted from engaging in activities involving the pre-sale enforcement of State standards which are identical to the FMVSS where such activities involve procedures or impose burdens which differ in any significant respect from those of the Federal regulatory scheme under the Act. The agency believes that the Act and its history strongly and clearly imply that Congress intended this agency to play an exclusive role in ensuring compliance

of new motor vehicles and equipment with the FMVSS. Congress intended further that States having any standards identical to the FMVSS would enforce them over the lives of motor vehicles and equipment after their first sale to consumers.

This notice clarifies and expands the position previously taken by the agency regarding preemption of pre-sale enforcement of State standards identical to the FMVSS. In a notice published on June 2, 1971, the agency stated that:

*** a State may not regulate motor vehicles or motor vehicle equipment, with respect to aspects of performance covered by Federal standards, by requiring prior State approval before sale or otherwise restricting the manufacture, sale, or movement within the State of products that conform to the standards. (36 FR 10745) ***

At that time, the agency suggested that it would be permissible for the States to enforce their standards prior to sale as long as the manufacturers were free to market their products while the State approval procedures were being followed.

Subsequently, the permissibility of pre-sale enforcement of State standards was considered in two cases titled *Truck Safety Equipment Institute v. Kane*, (419 F. Supp. 688, (M.D. Pa. 1975); vacated, 558 F.2d 1028 (3rd Cir. 1977); on remand, 466 F. Supp. 1242 (1979)) In the first of those cases, the district court held that a Pennsylvania law requiring motor vehicle equipment manufacturers to obtain pre-sale State approval of their equipment was preempted to the extent that the State standards being enforced were identical to the FMVSS. The State of Pennsylvania appealed to the Circuit Court of Appeals for the 3rd Circuit. That law was then replaced by another law requiring submission of the new equipment prior to sale but permitting sale during the approval process. The Court of Appeals remanded the case to the district court for consideration of the new law. On remand, the district court held that the new law also was preempted. This holding was based primarily on the pervasive scheme for Federal enforcement of the FMVSS.

Since the district court's decision in 1979, the agency has been reviewing its interpretation to determine whether it should be revised to reflect the broader position in that decision. During this time, the agency has thoroughly reexamined the Act and its legislative history. The agency's review has led it to the conclusion that the broader position in the 1979 decision more accurately reflects the Congressional intent underlying the Act.

NHTSA believes Congressional intent to preempt State pre-sale enforcement of their identical standards is implied by the Act's legislative history. An intent to preempt is implicit where, as in the case of the Act, Congress has indicated through its reports and debates that it intends an area to be subject exclusively to Federal regulation. This intent is evidenced with respect to the Act in two ways.

First, the changes made during the legislative process to section 103(d), the Act's only express reference to preemption, and the rationales in the legislative history for those changes demonstrate a Congressional intent that pre-sale enforcement of the FMVSS be the exclusive province of the Federal government. The first sentence of section 103(d) provides that:

*** Whenever a Federal motor vehicle safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle of item or motor vehicle equipment any safety standard applicable to the same aspects of such vehicle or item of equipment which is not identical to the Federal standard. (15 U.S.C. 1392(d)) ***

As introduced in the House, this section prohibited States from having any standard, even an identical one, relating to the same aspect of performance regulated by a Federal standard. The Senate Commerce Committee reported a modified provision which prohibited only those state standards which differed from the FMVSS regulating the same aspect of performance. The Committee's report explained that the Federal standards apply only up to the point of the first sale of a motor vehicle or item or equipment. S. Rep. No. 1301, 89th Cong., 2d Sess. 12 (1966). The Committee reported the modified preemption provision in the belief that the States should be free to apply identical standards over the subsequent life of the product. The clear implication of the Senate Report is that absent concern for application of safety standards beyond the point of sale to consumers, a broad preemption provision would have been adopted. This implication is reinforced by the conference report. The House managers of the conference report stated that section 103(d), as modified in the conference, would ensure that the issuance of a Federal standard, applicable to new motor vehicles or items or equipment, would not inadvertently preempt State standards applicable to older vehicles. H.R. Rep. No. 1919, 89th Cong., 2d Sess. 16 (1966).

Second, the intent that pre-sale enforcement of identical standards be an exclusively Federal function is implicit in the statements in the legislative history that Congress intended the Act to create a program of uniform national safety standards applicable to new motor vehicles and items of equipment. S. Rep. No. 1301, 12 (1966); H.R. Rep. No. 1776, 89th Cong., 2d Sess. 1 (1966). Vehicles and equipment complying with the Federal standards were to be allowed to be transported and sold freely throughout each of the 50 states. (112 Cong. Rec. 14230 (1966).)

An intent to preempt is implicit also where a State law obstructs the accomplishment and execution of the full purposes of Congress. The State programs for regulating the compliance of new motor vehicles and motor vehicle equipment pose an obstacle to the Congressional objective of implementing uniform national standards at the pre-sale phase. Congress sought to achieve the safety purposes of the Act by making NHTSA the sole arbiter of compliance with the FMVSS through a compliance program relying on self-certification. The State schemes interfere with the realization of that intent by establishing multiple arbiters and inconsistent compliance procedures. Congress sought also to facilitate the introduction of new or redesigned models of motor vehicles and equipment through selecting self-certification instead of type approval. The use by the States of type approval with respect to State standards identical to the FMVSS frustrates that Congressional choice.

The pre-sale enforcement of State standards also interferes with NHTSA's effort to assess the practicability of potential new FMVSS and to ensure an appropriate relationship between the safety benefits and compliance and other costs of those FMVSS. Further, the States' establishing of requirements necessitating that manufacturers pay approval and testing fees may in some cases frustrate the agency's effort to establish new safety requirements. The likelihood of those efforts being frustrated would vary directly as a function of the number of States that establish such requirements. The costs which manufacturers must bear in order to obtain State approval of products subject to identical Federal and State standards may have a controlling effect on the agency's determination of what level of new requirements, if any, are practicable in terms of the costs they would impose. Such an effect is particularly likely in the case of equipment standards given the

relatively small size of many equipment manufacturers.

The agency recognizes that the interference with these Congressional objectives by the State pre-sale enforcement programs may be theoretically offset to some extent by their promotion of the Act's safety purposes. However, the agency lacks any data indicating that those programs demonstrably increase the rate of compliance with the FMVSS.

Finally, preemption is implicit where Congress establishes a comprehensive and detailed regulatory scheme. The Act contains such a scheme to ensure compliance with the FMVSS. Each motor vehicle and equipment manufacturer is required by section 114 of the Act to certify the compliance of each motor vehicle and item of equipment with all applicable FMVSS. To enable the agency to monitor compliance, section 112 of the Act provides it with broad authority to require recordkeeping and reporting and to conduct investigations. Agency compliance tests are supplemented by periodic agency requests to manufacturers for the data and analyses they used as the bases for their certifications. Failure to comply with any FMVSS or to certify compliance is subject under sections 108 and 109 to a civil penalty of up to \$1,000 per violation. In the event that noncomplying motor vehicles or equipment are produced, the agency is empowered by section 110 to seek an injunction to prevent further production and to halt the sale of such products. With respect to noncomplying vehicles and equipment that are sold to consumers, sections 151 *et seq.* of the Act provide for the recall and remedy without charge by manufacturers of the noncomplying products.

Accordingly, it is the position of NHTSA that any State requirement which necessitates that manufacturers pay fees in order to obtain approval under a State standard identical to a FMVSS, and any imposition of requirements for approval which has the effect of proscribing the sale of equipment certified under the Act to a standard such as FMVSS 218 would be preempted by operation of the Act and of the agency's action in adopting the Federal standard in question.

Issued on December 30, 1981.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 81-37475 Filed 12-31-81; 9:57 am]
BILLING CODE 4910-59-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 1:00 p.m., January 22, 1982, at the offices of the Corporation, 800 Independence Ave. S.W., Washington, D.C. The agenda for this meeting is as follows: Opening Remarks; Approval of Minutes; Administrator's Report; Review Programs; Old and New Business; Closing Remarks.

Attendance is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than January 20, 1982 and information may be obtained from Robert D. Kraft, Director, Plans and Policy Development, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591; 202-426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, D.C. on December 30, 1981.

D. W. Oberlin,
Administrator.

[FR Doc. 82-341 Filed 1-6-82; 8:45 am]
BILLING CODE 4910-61-M

Urban Mass Transportation Administration

Announcement of Institutions Selected To Offer Section 10 Managerial Training Grant Short Courses

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Announcement of institutions selected to offer section 10 managerial training grant short courses.

SUMMARY: On June 18, 1981, the Urban Mass Transportation Administration (UMTA) announced that it was soliciting proposals for Section 10 Managerial Training Grant Short Courses. UMTA has completed its selection process and in this notice announces the names of the institutions it has selected.

FOR FURTHER INFORMATION CONTACT:

Charles T. Morison, Jr., Office of Transportation Management, Urban Mass Transportation Administration, 400 7th Street, SW., Washington, D.C. 20590, Attention: UPM-40; Telephone: (202) 426-9274.

SUPPLEMENTARY INFORMATION: Under Section 10 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1607(b)), UMTA is authorized to make grants to States, local public bodies, and agencies thereof, and operators of public transportation services, for training personnel employed in managerial, technical, and professional positions in the public transportation field.

As part of its activity pursuant to this authority, UMTA awards fellowships to eligible employees to attend selected "short courses." UMTA defines "short courses" to be intensive training activities offered by colleges, universities, or other educational organizations that run from as little as five days to a maximum of four weeks. Fellowships awarded to attend selected courses provide up to 75 percent of all costs including room, board, tuition, and travel.

On June 18, 1981, UMTA solicited proposals from institutions that were interested in offering "short courses." From over thirty proposals received, UMTA has selected the following eleven institutions:

Northeastern University, Boston
Brooklyn Polytechnic Institute, Brooklyn

Wharton School of Business, Philadelphia
National Mass Transit Institute, Pittsburgh
University of North Florida, Jacksonville
Transportation Center of the University of Tennessee, Knoxville
Cleveland State University, Cleveland
Indiana University, Bloomington
University of Wisconsin, Milwaukee
Institute for Transit Management, San Francisco
University of Washington, Seattle

These institutions will offer courses covering subjects such as management, personnel development, transit operations, general management, labor relations, and equipment maintenance.

Prospective students should apply directly to the institutions listed above. The institution will provide eligible students with a Section 10 grant application which the student's employer is to complete and send to UMTA. UMTA will review the grant applications and award grants based on the availability of funds.

Issued on: December 28, 1981.

Arthur E. Teele, Jr.,

Urban Mass Transportation Administrator.

[FR Doc. 82-330 Filed 1-6-82; 8:45 am]

BILLING CODE 4910-57-M

New Bus Equipment Introduction Program

Correction

In FR Doc. 81-36713, appearing at page 62599, in the issue of Thursday, December 24, 1981, make the following

correction. In the second column of page 62599, the telephone number in the "For Further Information Contact" paragraph was incorrect. The correct telephone number to call for further information is (202) 426-4035.

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supp. to Dept. Circ. Public Debt Series—No. 40-81]

Bonds of 2002; Interest Rate

January 4, 1982.

The Secretary announced on December 30, 1981, that the interest rate on the bonds designated Bonds of 2002, described in Department Circular—Public Debt Series—No. 40-81, dated December 22, 1981, will be 14¼ percent. Interest on the bonds will be payable at the rate of 14¼ percent per annum.

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.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-409 Filed 1-6-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 4

Thursday, January 7, 1982

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

	<i>Items</i>
Commodity Futures Trading Commission	1
Federal Communications Commission	2, 3
Federal Election Commission	4
Federal Maritime Commission	5
Federal Reserve System	6
Mississippi River Commission	7
National Credit Union Administration	8
Nuclear Regulatory Commission	9, 10
Tennessee Valley Authority	11

1

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 46, No. 251, Thursday, December 31, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, January 8, 1982.

CHANGES IN THE MEETING: Cancelled.

[S-13-82 Filed 1-5-82; 12:37 pm]

BILLING CODE 6351-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a series of briefings on Tuesday, January 5, 1982, Wednesday, January 6, 1982 and Thursday, January 7, 1982 on the subject listed below. Each briefing is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda and Subject

General—FY 83 Budget Proposals.

Additional information concerning these briefings may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-10-82 Filed 1-5-82; 9:03 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on Tuesday, January 12, 1982, for the purpose of issuing instructions to the staff following oral argument in the L.D.S. Enterprises, Inc., Los Altos, California proceeding (BC Docket No. 81-275), Simon Geller, WVCA-FM, Gloucester, Massachusetts proceeding (Docket Nos. 21104 and 21105) and the Quantico, Virginia AM radio renewal proceeding (Docket No. 21493).

Oral Argument which is open to the public, is scheduled to start at 9:30 a.m. in Room 856, 1919 M Street, N.W., Washington, D.C. (See News Releases of November 5, 1981 and December 17, 1981, Report Numbers 16670, 16732 and 16734).

The Closed Meeting will take place in Room 856 at the same address after the conclusion of the Oral Argument. This meeting is closed to the public because of the disposition of adjudicatory proceedings (See 57 CFR 0.603(j)).

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: January 5, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-17-82 Filed 1-5-82; 3:39 pm]

BILLING CODE 6712-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 12, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, January 13, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Continuation of Agenda of January 12, 1982. Executive Session, if Necessary.

* * * * *

DATE AND TIME: Thursday, January 14, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:

Draft AO 1981-51: William C. Oldaker, Metzbaum for Senate

Draft AO 1981-52: Paul D. Kamenar, National Association of Real Estate Investment Trusts, Inc.

Draft AO 1981-57: Sam Church, Coal Miners PAC

Revision of proposed regulations, communications by corporations and labor organizations, 11 CFR 114.3 and 114.4
Revision of proposed regulations, collecting agent and joint fundraising regulations, 11 CFR 102.6 and 102.7

Revised non-filter policy and procedure
Appropriations and budget
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-12-82 Filed 1-5-82; 11:56 am]

BILLING CODE 6715-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., January 13, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly report of actions taken pursuant to delegated authority.

2. Petition of East Coast Colombia Conference for investigation of alleged activities of Agromar Lines.

3. Docket No. 80-70: Proposed Exemption Under Section 35 of the Shipping Act, 1916, of Bulk Commodities from the Tariff Filing Requirements of Section 18(b) of the Act—Further rulemaking.

4. Docket No. 81-36: Procedures for Environmental Policy Analysis—Consideration of comments submitted in

response to notice of proposed rulemaking and proposed final rule.

5. Informal Docket No. 858(I): Mine Safety Appliances Co. v. United States Lines, Inc.—Petition of respondent for reconsideration of Settlement Officer's decision.

6. Docket No. 81-39: Agreement Nos. 10333, 10333-1, and 10333-2 Calcutta/Bangladesh/U.S.A. Pool Agreement—Referral of motion to stay, modify or terminate the order instituting the proceeding.

Portions closed to the public:

1. Docket No. 79-59: Stute International, Inc.—Independent Freight Forwarder License—Consideration of decision of the Court of Appeals.

2. Internal procedures for issuing dissents to Commission orders.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-15-82 Filed 1-5-82; 3:39 pm]

BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, January 13, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposal to revise Regulations G (Securities Credit by Persons Other than Banks, Brokers or Dealers), T (Credit by Brokers and Dealers), and U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks). (Published earlier for public comment; Docket No. R-0362).

2. Any items carried forward from a previously announced meeting.

Note. This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: January 5, 1982.
James McAfee,
Assistant Secretary of the Board.

[S-18-82 Filed 1-5-82; 3:54 pm]

BILLING CODE 6210-01-M

7

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: Beginning 1 p.m., January 28, 1982, and adjourning 12 noon, January 29, 1982.

PLACE: 1400 Walnut Street, Vicksburg, Mississippi.

STATUS: Open to the public for observation but not for participation.

MATTERS TO BE CONSIDERED:

General Status Report on the Flood Control, Mississippi River and Tributaries Project The Commission will consider the following project reports:
Horn Lake Creek and Tributaries, Including Cow Pen Creek, Tennessee and Mississippi Nonconnah Creek, Tennessee and Mississippi St. Johns Bayou and New Madrid Floodway, Missouri

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris; telephone 601-634-5766.

[S-14-82 Filed 1-5-82; 3:38 pm]

BILLING CODE 3710-GX-M

8

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Monday, January 11, 1982.

PLACE: 7th Floor Board Room, 1776 G Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility financial statements. Closed pursuant to exemptions (8), (9)(A) and (9)(B).
2. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Requests for merger with special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-11-82 Filed 1-5-82; 9:05 am]

BILLING CODE 7535-01-M

9

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 4, 1982 (additional item).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Friday, January 8:*
1:30 p.m.:

Discussion of Reactor Vessel Water Level Indicators (will include presentations by ACRS members, NRC staff and vendors) (public meeting)

ADDITIONAL INFORMATION: Affirmation items "b," "c," and "d" on January 7, 1982 are postponed.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

December 31, 1981.

Walter Magee,
Office of the Secretary.

[S-8-82 Filed 1-4-82; 4:24 pm]

BILLING CODE 7590-01-M

10

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 11, 1982.

PLACE: Commissioner's Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Monday, January 11:*

10:30 a.m.:

Oral Presentations on Waste Confidence Proceeding

2:00 p.m.:

Continuation of Oral Presentations on Waste Confidence Proceeding

Tuesday, January 12:

2:00 p.m.:

Briefing on Fire Protection Rule Schedules and Exemptions

Thursday, January 14:

3:00 p.m.:

- Affirmation/Discussion Session
Items to be affirmed and/or discussed:
- a. Revised General Statement of Policy and Procedures for Enforcement Actions
 - b. Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations
 - c. Proposed Rule Change on Technical Specifications
 - d. Final Rule on Intransit Physical Protection of Special Nuclear Material of Moderate Strategic Significance
 - e. Amendment to 10 CFR Part 110: Export of IAEA Safeguards Samples
 - f. Reconsideration of 10 CFR 2.700a (Exception from Procedural Rules for Adjudications Involving Conduct of Military or Foreign Affairs Functions) and Application to Pending Proceedings

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

January 4, 1982.

[S-16-82 Filed 1-5-82; 3:39 pm]

BILLING CODE 7590-01-M

11

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: 47 FR 128.

January 4, 1982.

CHANGES IN PREVIOUSLY ANNOUNCED

TIME OF MEETING: Because of the

requirements of TVA business, the

previously announced time of the

January 6 TVA Board meeting was

changed, following public

announcement of the change at the

earliest practicable time, to 9 a.m.,

January 6, 1982. The previously

announced location of the meeting,

Conference Room B-32, West Tower,

400 Commerce Avenue, Knoxville,

Tennessee, remains unchanged.

CONTACT PERSON FOR MORE

INFORMATION: Craven Crowell, Jr.,

Director of Information, or a member of

his staff can respond to requests for

information about this meeting. Call

615-632-3257, Knoxville, Tennessee.

Information is also available at TVA's

Washington office, 202-245-0101.

Dated: January 4, 1982.

[S-9-82 Filed 1-4-82; 5:10 p.m.]

BILLING CODE 8120-01-M

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federal register

Thursday
January 7, 1982

Part II

Department of Education

**National Direct Student Loan Program,
College Work-Study Program, and
Supplemental Educational Opportunity
Grant Program**

DEPARTMENT OF EDUCATION

34 CFR Parts 674, 675, and 676

National Direct Student Loan Program, College Work-Study Program, and Supplemental Educational Opportunity Grant Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary is proposing changes to the funding procedures for the National Direct Student Loan (NDSL), College Work-Study (CWS) and Supplemental Educational Opportunity Grant (SEOG) programs. These changes are proposed in order to revise the funding procedures that appear in the January 19, 1981 final regulations, 46 FR 5241. These regulations implemented statutory changes to the funding procedures for the campus-based programs which were required by the Education Amendments of 1980. The Secretary is also proposing regulations for verification of student aid applicant information. It is intended that these revisions will affect the procedures for allocating campus-based funds to institutions and will ensure the accuracy of student aid applicant information.

DATE: Comments must be received on or before February 22, 1982.

ADDRESS: Comments should be addressed to Margaret Henry, Office of Student Financial Assistance (Room 4018, ROB3), 400 Maryland Avenue SW., Washington, D.C. 20202-3454.

FOR FURTHER INFORMATION CONTACT: Janet Chad or Paula Husselmann, Telephone (202) 245-9720.

SUPPLEMENTARY INFORMATION:**Introduction**

This notice proposes changes to the funding procedures for the NDSL, CWS, and SEOG Programs. The procedures originated from a panel of experts in student financial aid. The panel's recommendations appeared in the June 1978 Office of Education's Bureau of Student Financial Assistant *Bulletin* and in the preamble to the NPRM published in the *Federal Register* on November 8, 1978 43 FR 52128 *et seq.* The panel recommended a two-step process for distributing campus-based funds. In the first step, both current participants and new applicants receive a conditionally guaranteed level of funding. In the second step, an institution may receive a share of the remaining funds based on a formula which determines the need of institutions for additional funds (fair share formula).

The Secretary has reviewed the results of this process for award years

1979-80, 1980-81, and 1981-82 and is proposing further changes to the funding requirements for award year 1982-83. These proposed changes are a result of the Education Amendments of 1980, discussions with the financial aid community, and written public comment.

The Secretary is also proposing procedures for each of the campus-based programs for verification of student aid applicant information.

Minor changes of a technical nature have been made to facilitate the proper administration of these programs.

Summary of Major Changes

A summary of major changes follows:

1. *Reallocation procedures—Section 4 of each part.* The Secretary is proposing changes to the reallocation procedures for each of the campus-based programs. These procedures are found in section 4 of the regulations for each of these programs. In place of the natural disaster and national fair share provisions for the distribution of reallocated funds, the proposed language adopts more general language, allowing the Secretary "to reallocate funds in a manner that best carries out the purposes of the programs," a change that gives the Secretary more flexibility to reallocate funds to institutions. Because the Education Amendments of 1980 give institutions flexibility in the use of campus-based funds, a smaller amount of unexpended funds will be available for reallocation.

2. *Conditional guarantee—Section 6 of each part.* a. The Secretary is proposing for the NDSL program that an institution which participated in the NDSL Program in the 1980-81 award year will receive a conditional guarantee equal to the greater of \$5000 or 90 percent of its 1980-81 level of expenditure. (Level of expenditure is the amount of loans made in an award year plus the amount the institution claimed for administrative expenses in that year.)

b. The Secretary is proposing for the NDSL program that an institution that did not participate in the 1980-81 award year and is not a first or second time participant will receive a conditional guarantee equal to the greater of 90 percent of its level of expenditures for the first year it participated in the NDSL program after the 1980-81 award year or \$5,000.

c. As amended by the Education Amendments of 1980, Pub. L. 96-374, the CWS statute guarantees an institution that participated in the CWS Program in award year 1979-80 an allocation equal to at least its 1979-80 award year Federal share of expenditures unless it

suffers a substantial decline in enrollment.

The Secretary proposes to define a "substantial decline in enrollment" as a decline of at least 30 percent between an institution's award year 1979-80 total enrollment and its base year total enrollment. (Base year means the 12-month period ending on the June 30 preceding the closing date for filing an application.) If an institution has suffered a substantial decline in total enrollment, its funding guarantee (conditional guarantee) will be reduced based on the percentage of the decline in the number of eligible aid applicants between the 1979-80 award year and the base year. For example, if an institution's total enrollment declined by 40 percent and its eligible aid applicants declined by 5 percent, its conditional guarantee would equal the greater of \$5000 or 95 percent of its 1979-80 award year Federal expenditures.

d. The Secretary is proposing for the CWS and SEOG programs that an institution that did not participate in the 1979-80 award year and is not a first or second time participant, will receive a conditional guarantee equal to the greater of 90 percent of its Federal expenditures for the first year it participated in the programs after the 1979-80 award year or \$5,000.

e. The Secretary is including in the NDSL, CWS and SEOG programs a \$5000 component of the conditional guarantee computation for all institutions in order to alleviate past funding inequities of institutions participating in the campus-based programs. This change provides each institution that so requests at least \$5000 as its conditional guarantee.

3. *Need of institutions for SEOG funds—34 CFR 676.6.* The Education Amendments of 1980 provided a formula for determining an institution's need for SEOG funds for each award year. An institution's SEOG need equals 75 percent of the cost of attendance of the institution's eligible undergraduate aid applicants minus the sum of (1) the expected family contribution of these students, (2) the Pell Grants received by these students, (3) the State Student Incentive Grants (SSIG) these students received and (4) 25 percent of the institutional grants they received.

The base year for reporting SSIG data will be updated annually as is the base year for Pell Grants. (For the 1982-83 award year and the base year for reporting SSIG data and Pell Grant data is the 1980-81 award year.) However, the base year for reporting institutional aid will remain the 1977-78 award year.

4. *Calculation of Federal capital contribution—NDSL default rate—34 CFR 674.6a.* The Secretary is proposing to change the impact of an institution's default rate on its receipt of Federal capital contribution (FCC). These changes result from a substantial number of comments received by the Secretary from various sectors of the postsecondary education community on the previous treatment of the relationship between an institution's default rate and its FCC. These proposed regulations make any institution with a base year default rate in excess of 25 percent ineligible to receive FCC; institutions with default rates greater than 10 percent but not more than 25 percent will potentially receive reduced FCC.

The Secretary will determine the amount of new FCC for an institution by subtracting from its conditionally guaranteed level of expenditure both its projected collections and its reimbursements for Direct loan cancellations received in the base year. The difference obtained by that subtraction together with an institution's State and National increases will be multiplied by 90 percent to determine its FCC.

In projecting an institution's collections, the Secretary will consider its default rate. If the default rate is 10 percent or less, its collections will be projected by multiplying the institution's actual base year collections by 121 percent. (One hundred and twenty one percent is used because the Secretary expects a 10 percent per year increase in collections in both the current year and the award year. A 10 percent collection increase over a two year period equals 121 percent of base year collections.) If an institution's default rate is greater than 10 percent but not more than 25 percent, its collections will be projected by multiplying the institution's actual base year collections by 121 percent, plus 121 percent of the additional amount which the institution would have collected if its base year default rate were 10 percent.

In order to calculate the additional amount that the institution would have collected if its default rate were only 10 percent (that is, the excess overdue amount), the Secretary determines the amount of defaulted loans that would equal a 10 percent default rate. This is done by multiplying the total amount of matured loans by 10 percent. Second, the Secretary subtracts 10 percent of the matured loans from the principal amount outstanding on defaulted loans that the institution reports on its fiscal-operations report. Third, this difference

is divided by the principal amount outstanding on defaulted loans that the institution reports on its fiscal-operations report. Fourth, the principal amount past due on defaulted loans is multiplied by the percent resulting from the division in step three to determine the excess overdue amount.

As an example, an institution's NDSL fund has:

- Matured loans totalling \$3,605,191;
- Unpaid principal amount outstanding on defaulted loans, as reported on its fiscal-operations report, of \$614,010;
- Past-due principal amount on defaulted loans, as reported on its fiscal-operations report, of \$323,414; and
- Total principal and interest collected, as reported on its fiscal-operations report, of \$110,031.

Using these figures, the institution's excess overdue amount is calculated as follows:

1. Ten percent of \$3,605,191 (matured loans) equals \$360,519.
 2. \$614,010 (unpaid principal amount outstanding on defaulted loans) minus \$360,519 equals \$253,491.
 3. \$253,491 divided by \$614,010 equals .41.
 4. .41 times \$323,414 (past due principal) equals \$132,600, the excess overdue amount.
 5. \$132,600 plus \$110,031 (amount collected in base year) equals \$242,631.
 6. \$242,631 multiplied by 121 percent equals \$293,584, the projected collections.
5. *Application review—Approval of request—Section 7 of each part.* The Secretary is proposing to include in section 7 elements of the funding formula that an institution may appeal when requesting a review of its computed funding level.

The elements that the Secretary is proposing that an institution may appeal are: the determination of expected collections used in determining the FCC; the default penalty applied to institutions with a default rate greater than 10 percent; and some of the elements used in calculating an institution's self-help and SEOG need including costs of books and supplies, average expected family contributions, enrollment data used to determine average tuition and fee costs, and the year used as the base year. The criteria upon which an institution may appeal these elements will be distributed to all institutions by the Secretary.

6. *Verification of Student Aid Applicant Information—Sections 674.22, 675.29, and 676.25.* As a means of strengthening the effort to control abuse

of the campus-based programs by students, the Secretary is proposing a new section in each of the program regulations, "Verification of student aid applicant information," (NDSL—Section 674.22, CWS—Section 675.29, SEOG—Section 676.25). The Secretary is proposing that the procedures in this section will take effect in the 1982-83 award year and pertain to verifying information needed to calculate a student's expected family contribution. Since a student's need for aid is determined solely on the basis of information supplied by the applicant, and the parents of dependent applicants, it is imperative that the pertinent data be accurate.

In the proposed verification regulations, the Secretary outlines the general responsibilities of the Secretary, the institution, and the student. The procedural details of the verification process have not been detailed in the proposed rule, but rather will be published and distributed in a procedures manual.

Specifically, this section requires that if the Secretary selects a student for verification or if the institution selects the student on behalf of the Secretary, the student must provide the required documentation to the institution. The institution must review that documentation and make any needed adjustments to its award determination.

The Secretary is proposing that the institution may make the first NDSL or SEOG disbursement for one payment period to the student to avoid disruption that may be caused by the verification process. Since by law a student must be paid for all hours worked, the Secretary is proposing that a student may not be employed under the CWS program until verification procedures are completed.

The Secretary is proposing that an institution must withhold all future NDSL and SEOG disbursements until the verification process is completed. This is being proposed in order to encourage students to submit promptly the documentation needed to verify the information on which their awards were based.

Any overpayment of an NDSL or SEOG identified in the verification process must be either eliminated by adjusting subsequent awards within the award year or repaid by the student.

The Secretary will develop the procedures manual for use in verifying student information. The manual will include procedures for selecting the student sample, items that must be verified and the documentation needed to verify that information, and tolerances.

The Secretary is requesting comments on all aspects of the proposed verification process. In addition, the Secretary will consult with the student financial aid community in the development of this process.

It should be noted that the Secretary does not intend to discourage the continuation of established institutional verification procedures now in place; rather it is our intention to ensure that a minimum level of verification be conducted to assure that the integrity of the programs is maintained.

In addition to the major changes described above, the Secretary is increasing the living expense figure used in calculating an institution's fair share for the 1982-83 award year to \$3200. The figure equals the sum of $\frac{1}{4}$ of the family size offset for single self-supporting students as calculated under the Pell Grant program, plus an amount for books and supplies.

Regulatory Flexibility Act

The small entities affected by these regulations are small institutions of higher education. The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. The regulations propose changes in the procedures for allocating program funds to institutions and calculating the Federal capital contribution, and they would permit the Secretary to require verification of information submitted by student aid applicants.

Invitation To Comment

The Secretary is inviting comments on the entire procedure for verifying campus-based financial aid information supplied by applicants and on the proposed revisions to the funding process.

Information from Institutions of Higher Education

The Secretary requests comments on whether these proposed regulations would require institutions of higher education to transmit information that is already being gathered by or is available from any other agency or authority of the United States.

Burden Reduction

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall objective of reducing regulatory burden, public comment is invited on whether there may be opportunities to reduce any regulatory burdens found in these regulations, especially with regard to paperwork and compliance requirements.

Address for Comments

Written comments and recommendations may be sent to the address given at the beginning of this preamble. The Secretary will consider in the development of the final regulations all comments received on or before February 22, 1982.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Regional Office Building 3, Room 4018, 7th and 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 Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

Dated: December 31, 1981.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers 84.038 National Direct Student Loan Program; 84.033 College Work Study Program; 84.007 Supplemental Educational Opportunity Grant Program)

The Secretary amends Parts 674, 675, and 676 respectively, of Title 34 of the Code of Federal Regulations as follows:

PART 674—NATIONAL DIRECT STUDENT LOAN PROGRAM

1. Section 674.4 is amended by revising paragraph (b) to read as follows:

§ 674.4 Allocation and reallocation.

(b) *Reallocation.* (1)(i) If an institution anticipates not lending all of its allocated funds by the end of an award year, it must specify the anticipated unused amount to the Secretary, who reduces the institution's allocation accordingly.

(ii) Other institutions may apply for the funds reported under paragraph (b)(1)(i) of this section on the form and at the time specified by the Secretary.

(iii) The Secretary distributes the funds reported under paragraph (b)(1)(i) of this section to applicant institutions in accordance with paragraph (b)(2) of this section.

(2)(i) If the funds that becomes available under paragraph (b)(1) of this section come from the State's initial allotment under § 674.3(a)(1), the Secretary reallocates those funds proportionately to other institutions in that State.

(ii) The Secretary reapportions those funds reported under paragraph (b)(1)(i) of this section that are not needed to maintain the State's initial allotment, and any funds that do not come from that initial allotment, in a manner that best carries out the purposes of the NDSL program.

2. Section 674.6 is amended by revising paragraphs (a), (b), and (c)(3) to read as shown below, and by changing the word "education" in paragraph (e)(4)(i) to read "attendance".

§ 674.6 Funding procedure.

(a) *General.* (1) Each institution applying for NDSL funds receives an approved level of expenditure in the following three stages—

(i) A "conditional guarantee;"
(ii) A State increase based on its "fair share" of the State apportionment; and
(iii) A national increase based on its "fair share" of the national appropriation.

(2) The terms "conditional guarantee" and "fair share" refer only to the level of expenditure. The Secretary computes the Federal capital contribution (FCC) according to § 674.6a.

(3) Definitions—As used in this section—

(i) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing an NDSL application.

(ii) "Current year" means the 12-month period ending on the June 30 immediately following the closing date for filing an NDSL application.

(iii) "Current year authorized level of expenditure" means—

(A) The FCC awarded for the current year; and

(B) The matching institutional capital contributions.

(iv) "Level of expenditure" means the amount of loans made in an award year plus the amount the institution claimed from the NDSL fund for administrative expenses in that year.

(b) *Conditional guarantee.* The Secretary computes a conditional guarantee of the level of expenditure in the following way;

(1) An institution that participated in the NDSL program in the 1980-81 award year receives a conditional guarantee equal to the greater of—

(i) \$5,000; or
(ii) 90 percent of its 1980-81 award year level of expenditures.

(2) An institution that did not participate in the 1980-81 award year and is not a first or second time participant, receives a conditional guarantee equal to the greater of—

(i) \$5,000; or
 (ii) 90 percent of its level of expenditure for the first year it participated in the NDSL program after the 1980-81 award year.

(3) An institution applying to participate in the NDSL program for the first or second time receives a conditional guarantee equal to the greatest of—

- (i) \$5,000;
 (ii) 90 percent of:

NDSL expenditures in the base year of eligible institutions offering comparable programs of instruction

× the applicant institution's base year enrollment; or

Enrolled students in the base year in those same institutions

(iii) 90 percent of its current year approved level of expenditure.

(c) * * *

(3) As used in paragraphs (d) and (e) of this section:

(i) *Average cost of attendance* means the attendance costs for undergraduate and graduate students. These costs include tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Secretary uses this amount to determine the average cost of attendance.)

(ii) *Eligible students* means students who—

(A) Were enrolled as regular students on at least a half-time basis in an eligible program during the base year;

(B) Met program regulation requirements for citizenship or residency in the United States for the base year; and

(C) Applied for financial assistance for the base year, and for whom the institution has on file taxable and non-taxable income data and all the other information necessary to perform a needs analysis using a methodology approved by the Secretary.

* * * * *

3. Section 674.6a is revised to read as follows:

§ 674.6a Funding procedure—Federal capital contributions (FCC).

(a) For any year, an institution may receive a Federal capital contribution if its default rate is not more than 25 percent.

(b) An institution's FCC equals 90 percent of its—

(1) Conditional guarantee minus the reimbursements for Direct loan cancellations received in the base year and loan repayments calculated under paragraph (c) of this section;

(2) State increase; and

(3) National increase.

(c) For purposes of paragraph (b)(1) of this section—

(1) If the institution's default rate is 10 percent or less, the Secretary considers its loan repayments to equal 121 percent of the amount it collected in the base year; and

(2) If an institution's default rate is greater than 10 percent and not more than 25 percent, the Secretary considers its loan repayments to be 121 percent of—

(i) The amount collected in the base year; plus

(ii) The additional amount it would have collected in the base year if its default rate were 10 percent (excess overdue amount).

(3) The Secretary calculates an institution's excess overdue amount by—

(i) Determining the amount of defaulted loans that would equal a 10 percent default rate by multiplying the total amount of matured loans of the institution by 10 percent;

(ii) Subtracting 10 percent of the matured loans from the defaulted principal amount outstanding;

(iii) Dividing the amount obtained in paragraph (b)(3)(ii) of this section by the defaulted principal amount outstanding; and

(iv) Multiplying the actual amount of past due principal by the fraction obtained in paragraph (b)(3)(iii) of this section.

(d) The definition of "default rate," "defaulted principal amount outstanding" and "matured loan" are set forth in § 674.2. However, for purposes of this section, the Secretary excludes from an institution's default rate—

(1) Notes referred to the U.S. Commissioner of Education on or before September 15, 1979 if the institution received either a notification of acceptance or a receipt from the Office of Education;

(2) Notes assigned to the United States on or before June 30 of the base year and received by the United States; and

(3) Notes that have been in default but on which borrowers have made satisfactory arrangements to resume payment.

(e) No institution may receive more Federal capital contribution than it requested.

(20 U.S.C. 1087bb)

4. Section 674.7 is revised to read as follows:

§ 674.7 Application appeal review.

(a) An institution may request a review of its computed level of

expenditure or its Federal capital contribution (FCC) at the time specified by Secretary.

(b) A National Appeal Panel appointed by the Secretary conducts the review.

(c) Notwithstanding §§ 674.6 and 674.6a an institution may appeal the following elements used in determining an institution's NDSL level of expenditure or FCC award:

(1) For purposes of determining an institution's FCC award:

(i) The expected collections used in determining an institution's FCC; and

(ii) The default penalty applied to institutions with a default rate greater than 10 percent; and

(2) For purposes of determining an institution's self-help need:

(i) The average cost of books and supplies;

(ii) The established expected family contributions;

(iii) The enrollment data used to determine average tuition and fee costs; and

(iv) The award year used as the base year.

(d) The Secretary and the appeal panel evaluate appeals on the basis of the following criteria and documentation required by the Secretary:

(1) The extent to which the institution can justify that an increase in NDSL collections of 10 percent per year is unreasonable.

(2) The extent to which the institution can justify that its default rate does not reflect its current collection efforts.

(3) The extent to which the institution can justify that the average cost of books and supplies does not accurately reflect these costs at the institution.

(4) The extent to which the institution can justify that the standard expected family contribution figures do not accurately reflect the characteristics of the student body at the institution.

(5) The extent to which the institution can justify that the average tuition and fee costs derived from the institution's enrollment data do not accurately reflect these costs at the institution.

(6) The extent to which the institution can justify that the base year used to determine its need for NDSL funds does not accurately reflect the institutions current need for NDSL funds.

(e) In establishing an institution's level of expenditure and Federal capital contribution, the Secretary considers the appeal panel's recommendations and its reasons for the recommendations.

(f) The Secretary establishes an approved level of expenditure and Federal capital contribution based on

procedures in § 674.6 and § 674.6a and the appeal panel's recommendations.
(20 U.S.C. 1087bb)

5. Section 674.22 is added to read as follows:

§ 674.22 Verification of student aid applicant information.

(a) The Secretary may require a student to verify, by specified documentation, the information on which the student's NDSL award is based and may require an institution to select students to verify, by specified documentation, the information on which their awards are based.

(b) Until verification procedures are completed, the institution may disburse not more than one payment, and may, at its option, withhold all payments.

(c) Any overpayment identified in the verification process or resulting from failure to provide required documentation must be—

(1) Eliminated by adjusting subsequent awards within the award year; or

(2) Repaid by the student.

(d) The Secretary will establish and publish procedures to be used for—

- (1) Selecting students for the verification process; and
- (2) Verifying information.

(20 U.S.C. 1087dd, 1089)

PART 675—COLLEGE WORK-STUDY PROGRAM

1. Section 675.4 is revised to read as follows:

§ 675.4 Allocation and reallocation.

(a) *Allocation.* The Secretary distributes CWS funds according to §§ 675.6 and 675.7.

(b) *Reallocation.* (1)(i) If an institution anticipates not using all of its allocated funds by the end of an award year it must, after determining the amount it will carry forward into the next award year, specify the anticipated remaining unused amount to the Secretary, who reduces the institution's allocation accordingly.

(ii) Other institutions may apply for the funds reported under paragraph (b)(1)(i) of this section on the form and at the time specified by the Secretary.

(iii) The Secretary distributes the funds reported under paragraph (b)(1)(i) of this section to applicant institutions in accordance with paragraphs (b)(2), (3) and (4) of this section.

(2) If the funds that become available under paragraph (b)(1) of this section come from the State's initial allotment under § 675.3(b)(1), the Secretary reallocates those funds equitably to other institutions in that State. The

Secretary reallocates those funds that are not needed to maintain the State's initial allotment, and any funds that do not come from that initial allotment, in accordance with paragraphs (b) (3) and (4) of this section.

(3) The Secretary increases the award to any institution whose CWS allocation is less than its 1979-80 award year CWS expenditures unless it suffers a substantial decline in enrollment as defined in § 675.6(a).

(4) The Secretary reallocates any remaining funds as follows:

(i) Fifty percent to eligible applicant institutions to initiate, improve, or expand cooperative education programs conducted in accordance with Title VIII of the HEA; and

(ii) Fifty percent in a manner that best carries out the purposes of the CWS program.

(c) *Payments to institutions.* The Secretary allocates funds for a specific period of time. The Secretary pays funds to an institution in advance or by reimbursement. The Secretary bases the amount to be paid on periodic fiscal reports.

(42 U.S.C. 2752 and 2756)

2. In § 675.6, paragraphs (a), (b) and (c)(3) are revised to read as follows:

§ 675.6 Funding procedure.

(a) *General.* (1) Each institution applying for CWS funds receives an amount computed in the following three stages:

(i) A "conditional guarantee;"

(ii) A State increase based on its "fair share" of the State apportionment; and

(iii) A national increase based on its "fair share" of the national appropriation.

(2) *Definitions*—As used in this section—

(i) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing a CWS application.

(ii) "Current year" means the 12-month period ending on the June 30 immediately following the closing date for filing a CWS application.

(iii) "Substantial decline in enrollment" means a decline in an institution's base year total enrollment by at least 30 percent from its 1979-80 award year total enrollment.

(b) *Conditional guarantee.* The Secretary computes a conditional guarantee in the following way:

(1)(i) An institution that participated in the CWS program in the 1979-80 award year receives a conditional guarantee equal to the greater of—

- (A) \$5,000; or

(B) its 1979-80 award year Federal share of expenditures unless it suffers a substantial decline in enrollment.

(ii) If an institution suffers a substantial decline in enrollment, the Secretary reduces its 1979-80 award year Federal share of CWS expenditures by the percentage of the decline in its eligible aid applicants between the 1979-80 award year and the base year.

(2) An institution that did not participate in the CWS program in the 1979-80 award year and is not a first or second time participant receives a conditional guarantee equal to the greater of—

- (i) \$5,000; or

(ii) 90 percent of its Federal share of expenditures for the first year it participated in the CWS program after the 1979-80 award year.

(3) An institution applying to participate in the CWS program for the first or second time receives a conditional guarantee equal to the greatest of—

- (i) \$5,000;
- (ii) 90 percent of

$$\frac{\text{Federal share of CWS expenditures in the base year by eligible institutions offering comparable programs of instruction}}{\text{Enrolled students in the base year in those same institutions}} \times \frac{\text{the applicant institution's base year enrollment; or}}$$

(iii) 90 percent of its current year allocation.

(c) * * *

(3) As used in paragraphs (d) and (e) of this section:

(i) *Average cost of attendance* means the attendance costs for undergraduate and graduate students. These costs include tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Secretary uses this amount to determine the average cost of attendance.)

(ii) *Eligible students* means students who—

(A) Were enrolled as regular students on at least a half-time basis in an eligible program during the base year;

(B) Met program regulation requirements for citizenship or residency in the United States for the base year; and

(C) Applied for financial assistance for the base year, and for whom the institution has on file taxable and nontaxable income data and all the other information necessary to perform

a needs analysis using a methodology approved by the Secretary.

3. Section 675.7 is revised to read as follows:

§ 675.7 Application appeal review.

(a) An institution may request a review of the amount of funds it is scheduled to receive at the time specified by the Secretary.

(b) A National Appeal Panel appointed by the Secretary conducts the review.

(c) Notwithstanding § 675.6, an institution may appeal the following elements used in determining an institution's self-help need:

(1) The average cost of books and supplies;

(2) The established expected family contributions;

(3) The enrollment data used to determine average tuition and fee costs; and

(4) The award year used as the base year.

(d) The Secretary and the appeal panel evaluate appeals on the basis of the following criteria and documentation required by the Secretary:

(1) The extent to which the institution can justify that the average cost of books and supplies does not accurately reflect these costs at the institution.

(2) The extent to which the institution can justify that the standards expected family contribution figures do not accurately reflect the characteristics of the student body at the institution.

(3) The extent to which the institution can justify that the average tuition and fee costs derived from the institution's enrollment data do not accurately reflect these costs at the institution.

(4) The extent to which the institution can justify that the base year used to determine its need for CWS funds does not accurately reflect the institution's current need for CWS funds.

(e) In setting an award amount, the Secretary considers the appeal panel's recommendations and its reasons for the recommendations.

(f) The Secretary sets an award amount based on procedures in § 675.6 and the appeal panel's recommendations.

(42 U.S.C. 2756)

4. Section 675.29 is added to read as follows:

§ 675.29 Verification of student aid applicant information.

(a) The Secretary may require a student to verify, by specified documentation, the information on

which the student's CWS award is based and may require an institution to select students to verify, by specified documentation, the information on which their awards are based.

(b) The institution may not employ under the CWS program a student it knows has been selected for verification until the verification procedures are completed.

(c) The Secretary will establish and publish procedures to be used for—

(1) Selecting students for the verification process; and

(2) Verifying information.

(42 U.S.C. 2753 and 20 U.S.C. 1089)

PART 676—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

1. Section 676.4 is revised to read as follows:

§ 676.4 Allocation and reallocation.

(a) *Allocation.* The Secretary distributes SEOG funds according to §§ 676.6 and 676.7.

(b) *Reallocation.* (1)(i) If an institution anticipates not using all of its allocation for initial and continuing grants by the end of an award period, it must specify the anticipated unused amount to the Secretary, who reduces the institution's allocation accordingly.

(ii) Other institutions may apply for the funds reported under paragraph (b)(1)(i) of this section on the form and at the time specified by the Secretary.

(iii) The Secretary distributes the funds reported under paragraph (b)(1)(i) of this section to applicant institutions in accordance with paragraph (b)(2) of this section.

(2)(i) If the funds that become available under paragraph (b)(1) of this section come from the State's initial allotment under § 676.3(a)(1), the Secretary reallocates those funds equitably to other institutions in that State. The Secretary reapportions those funds that are not needed to maintain the State's initial allotment, and any funds that do not come from that initial allotment, in accordance with subparagraphs (ii) and (iii).

(ii) The Secretary increases the award to any institution whose SEOG allocation is less than its 1979-80 award year SEOG Initial Year (IY) and Continuing Year (CY) expenditures; and

(iii) The Secretary reallocates any remaining funds in a manner that best carries out the purposes of the SEOG program.

(c) *Payments to institutions.* The Secretary allocates funds for a specific period of time. The Secretary pays funds

to an institution in advance or by reimbursement. The Secretary bases the amount to be paid on periodic fiscal reports.

(20 U.S.C. 1070b-3)

2. Section 676.6 is amended by revising paragraphs (a), (b) and (c)(3) to read as follows:

§ 676.6 Funding procedure.

(a) *General.* (1) Each institution applying for SEOG IY or CY funds receives an amount computed in the following stages:

(i) A "conditional guarantee;"

(ii) An IY State increase based on its "fair share" of the State's IY appropriation;

(iii) An IY national increase based on its "fair share" of the national IY portion of the SEOG appropriation; and

(iv) A CY national increase based on its "fair share" of the national CY portion of the SEOG appropriation.

(2) Definitions—As used in this section—

(i) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing an SEOG application.

(ii) "Current year" means the 12-month period ending on the June 30 immediately following the closing date for filing an SEOG application.

(b) *Conditional guarantee.* The Secretary provides each institution a conditional guarantee computed in the following way:

(1) An institution that participated in the SEOG program in the 1979-80 award year receives an SEOG conditional guarantee equal to the greater of—

(i) \$5,000; or

(ii) The sum of its 1979-80 award year IY and CY expenditures.

(2) An institution that did not participate in the SEOG program in the 1979-80 award year and is not a first or second time participant receives a conditional guarantee equal to the greater of—

(i) \$5,000; or

(ii) 90 percent of the sum of its IY and CY expenditures for the first year it participated in the SEOG program.

(3) An institution applying to participate in the SEOG program for the first or second time receives a conditional guarantee equal to the greatest of—

(i) \$5,000;

(ii) 90 percent of

IV expenditures in the base year by eligible institution offering comparable programs of institution

the applicant institution's base year enrollment; or

Enrolled students in the base year in those same institutions

(iii) 90 percent of its current year IV allocation and 100 percent of its current year CY allocation.

(4) The Secretary divides each institution's conditional guarantee between IV and CY funds based on the percentage that the institution's request for each type of grant bears to its total request.

(c) ***

(3) As used in paragraph (d) of this section:

(i) *Average cost of attendance* means the attendance costs for undergraduate students. These costs include tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Secretary uses this amount to determine the average cost of attendance.)

(ii) *Eligible students* means students who—

(A) Were enrolled as regular students on at least a half-time basis in an eligible program during the base year;

(B) Met program regulation requirements for citizenship or residency in the United States for the base year; and

(C) Applied for financial assistance for the base year, and for whom the institution has on file taxable and non-taxable income data and all the other information necessary to perform a needs analysis using a methodology approved by the Secretary;

(iii) *State Student Incentive Grants (SSIG)* means:

State's total SSIG for the base year (Federal plus match)

Institution's total undergraduate State grants for the base year.

The State's total undergraduate State grants for the base year (including the Federal SSIG allotment)

As used in this formula—

(A) "State" means the State in which the institution is located; and

(B) "State grants" means the sum of all State grants and scholarships received by undergraduate students at an institution during the base year.

(iv) *Institutional grants* means the sum of undergraduate gift aid included in determining the maintenance of effort amount under § 676.20 during the 1977-78 award year. Institutional grants shall not include student financial assistance that an institution is required by State law to provide from its own funds and is not free under any law in effect on January 1, 1979 to select the recipients or adjust the criteria by which the recipients are selected. Institutional grants shall also not include any student financial assistance that an institution contributed on behalf of the State for the SSIG Program.

3. Section 676.7 is revised to read as follows:

§ 676.7 Application appeal review.

(a) An institution may request a review of the amount of funds it is scheduled to receive at a time specified by the Secretary.

(b) A National Appeal Panel appointed by the Secretary conducts the review.

(c) Notwithstanding § 676.6 an institution may appeal the following fair share elements used in determining an institution's SEOG need:

- (1) The average cost of books and supplies;
- (2) The established expected family contributions;
- (3) The enrollment data used to determine average tuition and fee costs; and
- (4) The award year used as the base year.

(d) The Secretary and the appeal panel evaluate appeals on the basis of the following criteria and documentation required by the Secretary:

- (1) The extent to which the institution can justify that the average cost of books and supplies does not accurately reflect these costs at the institution.
- (2) The extent to which the institution can justify that the standard expected family contribution figures do not

accurately reflect the characteristics of the student body at the institution.

(3) The extent to which the institution can justify that the average tuition and fee costs derived from the institution's enrollment data do not accurately reflect these costs at the institution.

(4) The extent to which the institution can justify that the base year used to determine its need for SEOG funds does not accurately reflect the institution's current need for SEOG funds.

(e) In setting an award amount, the Secretary considers the appeal panel's recommendations and its reasons for the recommendations.

(f) The Secretary sets an award amount based on procedures in § 676.6 and the appeal panel's recommendations.

(20 U.S.C. 1070b-3)

4. Section 676.25 is added to read as follows:

§ 676.25 Verification of student aid applicant information.

(a) The Secretary may require a student to verify, by specified documentation, the information on which the student's SEOG award is based and may require an institution to select students to verify, by specified documentation, the information on which their awards are based.

(b) Until verification procedures are completed, the institution may disburse not more than one payment, and may, at its option, withhold all payments.

(c) Any overpayment identified in the verification process or resulting from failure to provide required documentation must be—

(1) Eliminated by adjusting subsequent awards within the award year; or

(2) Repaid by the student.

(d) The Secretary will establish and publish procedures to be used for—

- (1) Selecting students for the verification process; and
- (2) Verifying information.

(20 U.S.C. 1070b-2 and 1089)

[FR Doc. 82-355 Filed 1-6-82; 8:45 am]

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Thursday
January 7, 1982

Part III

Department of Housing and Urban Development

**Office of Assistant Secretary for
Housing—Federal Housing Commissioner**

**Mortgage Insurance and Home
Improvement Loans; Changes in
Maximum Mortgage Amounts**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 234

[Docket No. R-81-949]

Mortgage Insurance and Home Improvement Loans: Changes in Maximum Mortgage Amounts

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This rule revises single-family mortgage limits for areas where moderate- and middle-income persons have limited housing opportunities due to high prevailing housing sales prices.

DATES: Effective date: January 7, 1982.

Comments due: Comments must be received on or before March 8, 1982.

ADDRESS: Interested parties are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Comments should refer to the docket number shown above and the date of this publication. A copy of each comment submitted will be available for public examination and copying (at a charge of ten cents per page) during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

John J. Coonts, Director, Single Family Development Division, Room 9270, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6720 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Sections 203(b)(2) and 234(c) of the National Housing Act (12 U.S.C. 1709(b)(2), 1715y(c)) prescribe maximum mortgage amounts for the single-family and condominium unit mortgage programs established under such provisions. By Section 336 of the Housing and Community Development Act of 1980, such sections were amended to authorize the Secretary to increase the statutory limits on an area-by-area basis as the Secretary deems necessary, after taking into consideration the extent to which moderate- and middle-income persons have limited housing opportunities in the area due to high prevailing housing sales prices.

In the case of mortgages insured under Section 203(b), the statute provided that the increased limits could

not exceed the lesser of (A) 133 1/3% of the statutory limit, or (B) 95% of the median one-family house price in the area in the case of a one-family residence, 107% of such median price in the case of two-family residence, 130% for a three-family residence, and 150% for a four-family residence.

In the case of mortgages insured under Section 234(c), the statute provided that the increased limit could not exceed the lesser of 111% of the statutory limit or 95% of the median one-family house price in the area.

The Department published an interim rule on November 18, 1980 (45 FR 76376) implementing the statutory authorization. The interim rule added a new § 203.18b and amended § 234.27 of the regulations, in each case to provide for the limit increases on an area-by-area basis. In addition, the interim rule added a new Appendix A to each of Parts 203 and 234, setting the increased limits for the areas identified therein. The primary data reference employed in the development of the new area-wide limits was the Federal Home Loan Bank Board's survey of "Terms on Conventional Home Mortgages." Geographic identification was by Standard Metropolitan Statistical Areas (SMSA) and non-SMSA state-wide areas. Interested parties who determined that the designated maximum mortgage limits did not accurately reflect the extent to which moderate- and middle-income persons had limited housing opportunities in local market areas due to high prevailing housing sales prices were invited to submit comments.

An analysis of sales data contained in some comments indicated that the "median sales price" in some areas did not adequately reflect the cost of new homes because of a preponderance of existing home sales compared to new home sales. In the Conference Report on the Omnibus Budget Reconciliation Act of 1981, the conferees further clarified the intent of the 1980 amendments in such a context. The Conference Report stated: "While the Congress intends that the concept of 'median sales price' refer to the median of the aggregated sales price of new and existing homes, in cases where the median one-family home price does not reasonably reflect the sales prices of newly constructed homes because of an existing stock whose value is static or declining, the conferees expect the Secretary to give greater weight to the sales prices of new homes in determining median sales price in such areas, so that the housing opportunities of moderate- and middle-income persons will be maximized."

In this rulemaking action, the Department is amending Appendix A to Parts 203 and 234 to establish new increased mortgage limits for the geographic areas indicated therein. In addition, 24 CFR 203.18b and 234.27 are each amended to reflect the flexibility allowed in determining "median sales price" in areas where the Commissioner determines that the composite median one-family price does not reasonably reflect the sales price of newly constructed homes because of an existing stock whose value is static or declining.

In establishing increased limits for the amended Appendices published herein for areas where evidence indicated that existing home sales outnumbered new homes sales by three-to-one or better, the "median sales price" has been calculated as the greater of (1) the average of the median sales prices for new and existing homes, and (2) the composite median price of all sales.

Separate maximum mortgage amounts are established for Section 203(b) and 234(c). The amounts for Section 203(b) are applicable also to Sections 203(k), 213, 222, 240, 244, 245(a), 245(b), 809, and 810. Mortgage limits for Section 220(d) (3)(A)(i) are also the same as for Section 203(b), with per-unit increases of \$9,165 for each unit in excess of four.

In cases where interested parties consider that the designated maximum mortgage limits do not accurately reflect the extent to which moderate- and middle-income persons have limited housing opportunities due to high prevailing housing sales prices, they may comment on the limits in their area. Comments may be submitted to the appropriate HUD Field Office for review. Information which may be helpful in making a determination would include data for new and existing home sales in the area for a recent period of time.

The Secretary has determined that prior notice and public comment are not necessary and would be contrary to the public interest and that good cause exists for making this rule effective as soon as possible. Prior public comment would cause a substantial delay in making the benefits available, which would result in unnecessary hardship to homebuyers who need to use the increased mortgage amounts which this Interim Rule provides.

For these same reasons, it is not appropriate to delay the effective date of these provisions for the 30-day period provided in 5 U.S.C. 553(d). In addition, the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing, and Urban Affairs

and the House Committee on Banking, Finance and Urban Affairs have waived the 30-day delayed effective date provided for in Section 7(o)(3) of the Department of HUD Act, 42 U.S.C. 3535(o)(3). Accordingly, this regulation is being published as an interim rule to become effective upon publication. However, the Department is soliciting comments from the public prior to issuing a final rule. All comments received prior to conclusion of the 60-day comment period will be considered by the Department in preparation of the final rule.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned certifies that the rule does not have a significant economic impact on a substantial number of small entities.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address set forth above.

This rule was not listed in the Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on August 17, 1981 (46 FR 41708).

The following numbers identify the program, as listed in the Catalog of Federal Domestic Assistance, affected by the regulation change.

- Section 203(b)—14.117 Mortgage Insurance—Homes (F)—14.118 Mortgage Insurance—Homes for Certified Veterans (F)
- Section 213—14.126 Mortgage Insurance—Management Type Cooperative Projects (F)
- Section 220—14.122 Mortgage

- Insurance—Homes in Urban Renewal Areas (F)
 - Section 221(d)(2)—14.120 Mortgage Insurance—Homes for Low and Moderate Income Families (F)
 - Section 222—14.133 Mortgage Insurance—Purchase of Units in Condominiums (F)
 - Section 240—14.130 Mortgage Insurance—Purchase by Homeowners of the Fee Simple Title by Lessors (F)
 - Section 244—14.161 Single Family Mortgage Coinsurance (F)
 - Section 245(a) and 245(b)—14.159 Section 245 Graduated Payment Mortgage Program (F)
 - Section 809—14.167 Mortgage Insurance—Armed Services Housing—Civilian Employees (F)
 - Section 810—14.168 Armed Services Housing—Impacted Areas (F)
- Accordingly, Chapter II of Title 24 C.F.R. is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. Section 203.18b is amended by adding a new paragraph (c) to read as follows:

§ 203.18b Increased mortgage amount.

(c) In the case of an area where the Commissioner determines that the median one-family house price does not reasonably reflect the sales prices of newly constructed homes because of an existing stock whose value is static or declining, the Commissioner may give greater weight to the sales prices of new homes in determining median house price in such area. Without limiting the discretion of the Commissioner in fashioning appropriate methods of implementing the foregoing authority in particular circumstances based upon a demonstration of good cause satisfactory to the Commissioner, in areas where evidence satisfactory to the

Commissioner indicates that existing home sales outnumber new home sales by three-to-one or better, the "median sales price" will be calculated as the greater of (1) the average of the median sales price for new and existing homes, and (2) the composite median price of all sales.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

2. Section 234.27 is amended by adding a new paragraph (c) to read as follows:

§ 234.27 Maximum mortgage amounts.

(c) In the case of an area where the Commissioner determines that the median one-family house price does not reasonably reflect the sales prices of newly constructed homes because of an existing stock whose value is static or declining, the Commissioner may give greater weight to the sales prices of new homes in determining median house price in such area. Without limiting the discretion of the Commissioner in fashioning appropriate methods of implementing the foregoing authority in particular circumstances based upon a demonstration of good cause satisfactory to the Commissioner, in areas where evidence satisfactory to the Commissioner indicates that existing home sales outnumber new home sales by three-to-one or better, the "median sales price" will be calculated as the greater of (1) the average of the median sales price for new and existing homes, and (2) the composite median price of all sales.

PART 203—[AMENDED]

3. Part 203 is amended by revising Appendix A at the end thereof to read, in its entirety, as follows:

Appendix A to Part 203

Schedule of Section 203(b) Area-Wide One- To Four-Family Mortgage Limits

For any market area (county or part of a county) not listed in Appendix A below, the following maximum mortgage limits shall apply: \$67,500 for a one-family unit; \$76,000 for a two-family unit; \$92,000 for a three-family unit; and \$107,000 for a four-family unit.

Market area designation and local jurisdictions	Section 203(b) mortgage limits			
	1-family	2-family	3-family	4-family
REGION I				
HUD Field Office: Hartford Area Office				
Bridgeport, CT SMSA:				
Fairfield County (part)	\$70,500	\$79,500	\$96,500	\$112,000

Market area designation and local jurisdictions	Section 203(b) mortgage limits			
	1-family	2-family	3-family	4-family
Bridgeport City Shelton City Easton Town Fairfield Town Monroe Town Stratford Town Trumbull Town New Haven County (part) Derby City Milford City Bristol, CT SMSA: Hartford County (part).....				
Bristol City Burlington Town Litchfield County Plymouth Town Danbury, CT SMSA: Fairfield County (part).....	71,000	80,000	97,000	113,000
Danbury City Bethel Town Brookfield Town New Fairfield Town Newtown Town Redding Town Litchfield County (part) New Milford Town Hartford, CT SMSA: Hartford County (part).....	80,000	90,000	109,000	127,000
Hartford City Avon Town Bloomfield Town Canton Town East Granby Town East Hartford Town East Windsor Town Enfield Town Farmington Town Glastonbury Town Granby Town Manchester Town Marlborough Town Newington Town Rocky Hill Town Simsbury Town South Windsor Town Suffield Town West Hartford Town Wethersfield Town Windsor Town Windsor Locks Town Litchfield County (part) New Hartford Town Middlesex County (part) Cromwell Town East Hampton Town Portland Town New London County Colchester Town Tolland County (part) Andover Town Bolton Town Columbia Town Coventry Town Ellington Town Hebron Town Stafford Town Tolland Town Vernon Town Willington Town Norwalk, CT SMSA: Fairfield County (part).....	68,000	77,000	93,000	108,000
Norwalk City Weston Town Westport Town Wilton Town Stamford, CT SMSA: Fairfield County (part).....	90,000	101,300	122,650	142,650
Stamford City Darien Town Greenwich Town New Canaan Town	90,000	101,300	122,650	142,650
REGION II HUD Field Office: New York Area Office				
New York and Nassau-Suffolk, NY SMSAS (combined): Bronx County.....	\$72,000	\$81,000	\$98,500	\$114,500

Market area designation and local jurisdictions	Section 203(b) mortgage limits			
	1-family	2-family	3-family	4-family
Kings County Nassau County New York County Putnam County Queens County Richmond County Rockland County Suffolk County Westchester County				
HUD Field Office: Newark Area Office				
State of New Jersey—northern metro areas:				
Bergen County	\$83,500	\$94,000	\$113,500	\$132,000
Essex County				
Hudson County				
Middlesex County				
Monmouth County				
Morris County				
Passaic County				
Somerset County				
Union County				
HUD Field Office: Camden Service Office				
Atlantic City, NJ SMSA: Atlantic County	\$89,000	\$100,000	\$121,000	\$141,000
Trenton, NJ SMSA: Mercer County	68,500	77,000	93,500	108,000
REGION III				
HUD Field Office: Washington, DC Area Office				
Washington, DC-MD-VA SMSA:				
District of Columbia	\$89,500	\$100,500	\$122,000	\$141,500
Montgomery County, MD				
Prince Georges County, MD				
Alexandria City, VA				
Fairfax City, VA				
Fairfax County, VA				
Falls Church City, VA				
Manassas City, VA				
Manassas Park City, VA				
Arlington County, VA				
Loudoun County, VA				
Prince William County, VA				
HUD Field Office: Baltimore Area Office				
Washington, DC-MD-VA SMSA: Charles County	\$89,500	\$100,500	\$122,000	\$141,500
Baltimore, MD SMSA (part):				
Howard County	78,500	88,000	107,000	124,000
Anne Arundel County				
HUD Field Office: Richmond Area Office				
Newport News-Hampton and Norfolk-VA Beach-Portsmouth, VA SMSA (combined):				
Chesapeake City	\$76,500	\$86,000	\$104,500	\$120,500
Hampton City				
Newport News City				
Norfolk City				
Poquoson City				
Portsmouth City				
Suffolk City				
Virginia Beach City				
Williamsburg City				
Gloucester County				
James City County				
York County				
REGION IV				
HUD Field Office: Greensboro Area Office				
Newport News-Hampton and Norfolk-VA Beach-Portsmouth, VA SMSA:				
Currituck County	\$76,500	\$86,000	\$104,500	\$120,500
HUD Field Office: Columbia Area Office				
Charleston-North Charleston, SC SMSA:				
Berkeley County	\$80,500	\$90,500	\$110,000	\$127,500
Charleston County				
Dorchester County				
HUD Field Office: Atlanta Area Office				
Atlanta, GA SMSA:				
Butts County	\$78,500	\$88,500	\$107,000	\$124,500

Market area designation and local jurisdictions	Section 203(b) mortgage limits			
	1-family	2-family	3-family	4-family
Cherokee County Clayton County Cobb County De Kalb County Douglas County Fayette County Forsyth County Fulton County Gwinnett County Henry County Newton County Paulding County Rockdale County Walton County				
HUD Field Office: Birmingham Area Office				
Mobile, AL SMSA: Baldwin County	\$75,000	\$84,000	\$102,500	\$118,000
Mobile County				
Montgomery, AL SMSA: Autauga County	75,000	84,000	102,500	118,000
Elmore County				
Montgomery County				
HUD Field Office: Memphis Service Office				
Memphis, TN-AR-MS SMSA: Shelby County	\$75,000	\$84,000	\$102,500	\$118,000
Tipton County				
HUD Field Office: Jackson Area Office				
Memphis, TN-AR-MS SMSA: De Soto County.....	\$75,000	\$84,000	\$102,500	\$118,000
HUD Field Office: Coral Gables Service Office				
Ft. Lauderdale-Hollywood, FL SMSA: Broward County.....	\$72,500	\$81,500	\$98,500	\$115,000
Miami, FL SMSA: Dade County.....	71,500	80,500	97,500	113,500
West Palm Beach-Boca Raton, FL SMSA: Palm Beach County.....	73,500	82,500	100,000	115,500
REGION V				
HUD Field Office: Minneapolis-St. Paul Area Office				
Minneapolis-St. Paul, MN SMSA: Anoka County	\$74,000	\$83,000	\$101,000	\$117,500
Carver County				
Chicago County				
Dakota County				
Hennepin County				
Ramsay County				
Scott County				
Washington County				
Wright County				
St. Cloud, MN SMSA: Benton County	68,500	77,000	93,500	108,500
Sherburne County				
Stearns County				
HUD Field Office: Milwaukee Area Office				
Minneapolis-St. Paul, MN SMSA: St. Croix County	\$74,000	\$83,000	\$101,000	\$117,500
Milwaukee, WI SMSA: Milwaukee County.....	73,500	83,000	100,500	116,500
Ozaukee County				
Washington County				
Waukesha County				
HUD Field Office: Chicago Area Office				
Chicago, IL SMSA: Cook County.....	\$82,000	\$92,000	\$111,500	\$129,500
DuPage County				
Kane County				
Lake County				
McHenry County				
Will County				
HUD Field Office: Detroit Area Office				
Detroit, MI SMSA: Lapeer County.....	\$69,500	\$83,500	\$101,500	\$118,000

Market area designation and local jurisdictions	Section 203(b) mortgage limits			
	1-family	2-family	3-family	4-family
Livingston County Macomb County Oakland County St. Clair County Wayne County				
HUD Field Office: Columbus Area Office				
Cleveland, OH SMSA: Cuyahoga County Geauga County Lake County Medina County	\$70,500	\$79,000	\$96,000	\$111,500
REGION VI				
HUD Field Office: Dallas Area Office				
Dallas-Ft. Worth, TX SMSA: Collin County Dallas County Denton County Ellis County Kaufman County Rockwall County	\$85,000	\$95,500	\$115,500	\$134,500
Sherman-Denison, TX SMSA: Grayson County	78,000	86,000	106,500	124,000
HUD Field Office: Fort Worth Service Office				
Dallas-Ft. Worth, TX SMSA: Hood County Johnson County Parker County Tarrant County Wise County	\$85,000	\$95,500	\$115,500	\$134,500
HUD Field Office: Houston Service Office				
Houston, TX SMSA: Brazoria County Ft. Bend County Harris County Liberty County Montgomery County Waller County	\$69,500	\$78,000	\$95,000	\$110,500
HUD Field Office: Lubbock Service Office				
Amarillo, TX SMSA: Potter County Randall County	\$68,500	\$77,000	\$93,500	\$108,500
Lubbock, TX SMSA: Lubbock County	70,000	78,500	95,500	110,500
Midland, TX SMSA: Midland County	70,000	78,500	95,500	110,500
HUD Field Office: San Antonio Area Office				
Austin and San Antonio, TX SMSAS (combined): Bexar County Comal County Guadalupe County Hays County Travis County Williamson County	\$69,500	\$78,500	\$95,500	\$110,000
Corpus Christi, TX SMSA: Nueces County San Patricio County	70,000	78,500	95,500	110,500
HUD Field Office: Little Rock Area Office				
Memphis, TN-AR-MS SMSA: Crittenden County	\$75,000	\$84,000	\$102,500	\$118,000
HUD Field Office: Oklahoma City Area Office				
Oklahoma City, OK SMSA: Canadian County Cleveland County McClain County Oklahoma County Pottawatomie County	\$68,000	\$76,500	\$93,000	\$108,000
HUD Field Office: New Orleans Area Office				
Baton Rouge and New Orleans, LA SMSAS (combined): Ascension Parish	\$76,000	\$85,500	\$103,500	\$120,500

Market area designation and local jurisdictions	Section 203(b) mortgage limits			
	1-family	2-family	3-family	4-family
East Baton Rouge Parish Jefferson Parish Livingston Parish Orleans Parish St. Bernard Parish St. Tammany Parish West Baton Rouge Parish				
HUD Field Office: Albuquerque Service Office				
Albuquerque, NM SMSA: Bernalillo County Sandoval County	\$76,500	\$86,000	\$104,000	\$121,000
HUD Field Office: Tulsa Service Office				
Tulsa, OK SMSA: Creek County Mayes County Osage County Rogers County Tulsa County Wagoner County	\$71,500	\$80,500	\$97,500	\$113,500
REGION VIII				
HUD Field Office: Denver Regional/Area Office				
Denver-Boulder, CO SMSA: Adams County Arapahoe County Boulder County Denver County Douglas County Gilpin County Jefferson County	\$76,000	\$85,500	\$103,500	\$120,500
Greeley, CO SMSA: Weld County	70,500	79,500	96,500	111,500
Colorado statewide non-SMSA areas	70,500	79,500	96,500	111,500
HUD FIELD OFFICE: HELENA SERVICE OFFICE				
State of Montana, SMSA and non-SMSA areas	\$75,500	\$84,000	\$102,500	\$118,000
REGION IX				
HUD Field Office: Los Angeles Area Office				
Los Angeles area, office metro and nonmetro areas: Los Angeles County San Luis Obispo County Santa Barbara County Ventura County	\$90,000	\$101,300	\$122,600	\$142,600
HUD Field Office: San Francisco Area Office				
San Francisco area office metro and nonmetro areas: Alameda County Contra Costa County Del Norte County Humboldt County Lake County Marin County Mendocino County Monterey County Napa County San Benito County San Francisco County San Mateo County Santa Clara County Santa Cruz County Solano County Sonoma County	\$90,000	\$101,300	\$122,600	\$142,600
HUD Field Office: Fresno Service Office				
Fresno service office metro and nonmetro areas: Fresno County Kern County Kings County Madera County Mariposa County Merced County Stanislaus County Tulare County	\$71,500	\$80,500	\$98,000	\$113,000
HUD Field Office: Sacramento Service Office				
Sacramento service office metro and nonmetro areas: Alpine County	\$84,000	\$95,000	\$115,000	\$133,500

Market area designation and local jurisdictions	Section 203(b) mortgage limits			
	1-family	2-family	3-family	4-family
Amador County Butte County Calaveras County Colusa County El Dorado County Glenn County Lassen County Modoc County Nevada County Placer County Plumas County Sacramento County San Joaquin County Shasta County Sierra County Siskiyou County Sutter County Tehama County Trinity County Tuolumne County Yolo County Yuba County				
HUD Field Office: San Diego Service Office				
San Diego service office metro and nonmetro areas:				
Imperial County	\$90,000	\$101,300	\$122,600	\$142,600
San Diego County				
HUD Field Office: Santa Ana Service Office				
Santa Ana service office metro areas:				
Orange County	\$90,000	\$101,300	\$122,600	\$142,600
Riverside County				
San Bernardino County				
Santa Ana service office nonmetro areas:				
Inyo County	71,500	80,500	98,000	113,000
Mono County				
HUD Field Office: Las Vegas Service Office				
Las Vegas, NV SMSA: Clark County	\$90,000	\$101,300	\$122,600	\$142,600
State of Nevada—nonmetro areas:				
Lincoln County	75,000	84,000	102,500	118,000
Nye County (part)				
HUD Field Office: Reno Service Office				
Reno, NV SMSA: Washoe County	\$89,500	\$101,000	\$122,000	\$142,000
State of Nevada—nonmetro areas:				
Carson City County	75,000	84,000	102,500	118,000
Churchill County				
Douglas County				
Eiko County				
Esmeralda County				
Eureka County				
Humboldt County				
Lander County				
Lyon County				
Mineral County				
Nye County (part)				
Pershing County				
Storey County				
White Pine County				
HUD Field Office: Phoenix Service Office				
Phoenix, AZ SMSA: Maricopa County	\$81,000	\$91,500	\$111,500	\$128,500
HUD Field Office: Tucson Service Office				
Tucson, AZ SMSA: Pima County	\$68,500	\$77,000	\$94,000	\$108,000
HUD Field Office: Honolulu Area Office				
State of Hawaii metro and nonmetro areas	\$135,000	\$151,950	\$183,975	\$213,975
REGION X				
HUD Field Office: Seattle Area Office				
Richland-Kennewick and Yakima, WA SMSAS (combined): Yakima County	\$72,000	\$81,500	\$99,000	\$114,000
Seattle-Everett, WA SMSA:				
King County	72,000	81,500	99,000	114,000
Snohomish County				
Tacoma, WA SMSA: Pierce County	71,000	80,000	97,500	112,500

Market area designation and local jurisdictions	Section 203(b) mortgage limits			
	1-family	2-family	3-family	4-family
HUD Field Office: Spokane Service Office				
Richland-Kennewick and Yakima, WA SMSAS (combined):				
Benton County	\$72,000	\$81,500	\$99,000	\$114,000
Franklin County				
Spokane, WA SMSA: Spokane County	72,000	81,500	99,000	114,000
HUD Field Office: Boise Service Office				
Boise City, ID SMSA: Ada County	\$75,000	\$84,000	\$102,500	\$118,000

PART 234 [AMENDED]

4. Part 234 is amended by revising Appendix A at the end thereof to read, in its entirety, as follows:

Appendix A to Part 234

Schedule of Section 234(c) Area-Wide One-Family Mortgage Limits

For any market area (county or part of a county) not listed in Appendix A below, the maximum mortgage limit for a one-family condominium unit insured under section 234(c) shall be: \$67,500.

Market area designation and local jurisdictions	Section 234(c) mortgage limit
REGION I.—HUD Field Office: Hartford Area Office	
Bridgeport, CT SMSA	\$70,500
Fairfield County (part)	
Bridgeport City	
Shelton City	
Easton Town	
Fairfield Town	
Monroe Town	
Stratford Town	
Trumbull Town	
New Haven County (part)	
Derby City	
Milford City	
Bristol, CT SMSA	71,000
Hartford County (part)	
Bristol City	
Burlington Town	
Litchfield County	
Plymouth Town	
Danbury, CT SMSA	74,900
Fairfield County (part)	
Danbury City	
Bethel Town	
Brookfield Town	
New Fairfield Town	
Newtown Town	
Redding Town	
Litchfield County (part)	
New Milford Town	
Hartford, CT SMSA	68,000
Hartford County (part)	
Hartford City	
Avon Town	
Bloomfield Town	
Canton Town	
East Granby Town	
East Hartford Town	
East Windsor Town	
Enfield Town	
Farmington Town	

Market area designation and local jurisdictions	Section 234(c) mortgage limit
Glastonbury Town	
Granby Town	
Manchester Town	
Marlborough Town	
Newington Town	
Rocky Hill Town	
Simsbury Town	
South Windsor Town	
Suffield Town	
West Hartford Town	
Wethersfield Town	
Windsor Town	
Windsor Locks Town	
Litchfield County (part)	
New Hartford Town	
Middlesex County (part)	
Cromwell Town	
East Hampton Town	
Portland Town	
New London County	
Colchester Town	
Tolland County (part)	
Andover Town	
Bolton Town	
Columbia Town	
Coventry Town	
Ellington Town	
Hebron Town	
Stafford Town	
Tolland Town	
Vernon Town	
Willington Town	
Norwalk, CT SMSA	74,900
Fairfield County (part)	
Norwalk City	
Weston Town	
Westport Town	
Wilton Town	
Stamford, CT SMSA	74,900
Fairfield County (part)	
Stamford City	
Darlen Town	
Greenwich Town	
New Canaan Town	
REGION II.—HUD Field Office: New York Area Office	
New York and Nassau-Suffolk, NY SMSAS (combined)	72,000
Bronx County	
Kings County	
Nassau County	
New York County	
Putnam County	
Queens County	
Richmond County	
Rockland County	
Suffolk County	
Westchester County	
HUD Field Office: Newark Area Office	
State of New Jersey—northern metro areas	74,900

Market area designation and local jurisdictions	Section 234(c) mortgage limit
Bergen County	
Essex County	
Hudson County	
Middlesex County	
Monmouth County	
Morris County	
Passaic County	
Somerset County	
Union County	
HUD Field Office: Camden Service Office	
Atlantic City, NJ SMSA, Atlantic County	74,900
Trenton, NJ SMSA, Mercer County	68,500
REGION III.—HUD FIELD OFFICE: WASHINGTON, DC AREA OFFICE	
Washington, DC—MD—VA SMSA	74,900
District of Columbia	
Montgomery County, MD	
Prince Georges County, MD	
Alexandria City, VA	
Fairfax City, VA	
Fairfax County, VA	
Falls Church City, VA	
Manassas City, VA	
Manassas Park City, VA	
Arlington County, VA	
Loudoun County, Va	
Prince William County, VA	
Washington, DC—MD—VA SMSA, Charles County, MD	74,900
Baltimore, MD SMSA (part)	74,900
Howard County	
Anne Arundel County	
HUD Field Office: Richmond Area Office	
Newport News-Hampton and Norfolk-VA Beach-Portsmouth, VA SMSA (combined)	74,900
Chesapeake City	
Hampton City	
Newport News City	
Norfolk City	
Poquoson City	
Portsmouth City	
Suffolk City	
Virginia Beach City	
Williamsburg City	
Gloucester County	
James City County	
York County	
REGION IV.—HUD Field Office: Greensboro Area Office	
Newport News-Hampton and Norfolk-VA Beach-Portsmouth, VA SMSA, Currituck County	74,900
HUD Field Office: Columbia Area Office	
Charleston-North Charleston, SC SMSA	74,900
Berkeley County	
Charleston County	
Dorchester County	
HUD Field Office: Atlanta Area Office	
Atlanta, GA SMSA	74,900
Butts County	
Cherokee County	
Clayton County	
Cobb County	
De Kalb County	
Douglas County	
Fayette County	
Forsyth County	
Fulton County	
Gwinnett County	
Henry County	
Newton County	
Paulding County	

Market area designation and local jurisdictions	Section 234(c) mortgage limit
Rockdale County Walton County	
HUD Field Office: Birmingham Area Office	
Mobile, AL SMSA.....	74,900
Baldwin County Mobile County	
Montgomery, AL SMSA.....	74,900
Autauga County Elmore County Montgomery County	
HUD Field Office: Memphis Service Office	
Memphis, TN-AR-MS SMSA.....	74,900
Shelby County Tipton County	
HUD Field Office: Jackson Area Office	
Memphis, TN-AR-MS SMSA, DeSoto County.....	74,900
HUD Field Office: Coral Gables Service Office	
Miami, FL SMSA, Dade County.....	71,500
West Palm Beach-Boca Raton, FL SMSA, Palm Beach County.....	73,500
REGION V.—HUD Field Office: Minneapolis-St. Paul Area Office	
Minneapolis-St. Paul, MN SMSA.....	74,000
Anoka County Carver County Chisago County Dakota County Hennepin County Ramsey County Scott County Washington County Wright County	
St. Cloud, MN SMSA.....	68,500
Benton County Sherburne County Stearns County	
HUD Field Office: Milwaukee Area Office	
Minneapolis-St. Paul, MN SMSA, St. Croix County.....	74,000
Milwaukee, WI SMSA.....	73,500
Milwaukee County Ozaukee County Washington County Waukesha County	
HUD Field Office: Detroit Area Office	
Detroit, MI SMSA.....	69,500
Lapeer County Livingston County Macomb County Oakland County St. Clair County Wayne County	
HUD Field Office: Columbus Area Office	
Cleveland, OH SMSA.....	70,500
Cuyahoga County Geauga County Lake County Medina County	
REGION VI.—HUD Field Office: Dallas Area Office	
Dallas-Ft. Worth, TX SMSA.....	74,900
Collin County Dallas County Denton County Ellis County Kaufman County Rockwall County	
Sherman-Denison, TX SMSA, Grayson County.....	74,900

Market area designation and local jurisdictions	Section 234(c) mortgage limit
HUD Field Office: Forth Worth Service Office	
Dallas-Ft. Worth, TX SMSA.....	74,900
Hood County Johnson County Parker County Tarrant County Wise County	
HUD Field Office: Houston Service Office	
Houston, TX SMSA.....	69,500
Brazoria County Fl. Bend County Harris County Liberty County Montgomery County Waller County	
HUD Field Office: Lubbock Service Office	
Amarillo, TX SMSA.....	68,500
Potter County Randall County	
Lubbock, TX SMSA, Lubbock County.....	70,000
Midland, TX SMSA, Midland County.....	70,000
HUD Field Office: San Antonio Area Office	
Austin and San Antonio, TX SMSAS (combined).....	69,500
Bexar County Comal County Guadalupe County Hays County Travis County Williamson County	
Corpus Christi, TX SMSA.....	70,000
Nueces County San Patricio County	
HUD Field Office: Little Rock Area Office	
Memphis, TN-AR-MS SMSA, Crittenden County.....	74,900
HUD Field Office: Oklahoma City Area Office	
Oklahoma City, OK SMSA.....	68,000
Canadian County Cleveland County McCain County Oklahoma County Pottawatomie County	
HUD Field Office: New Orleans Area Office	
Baton Rouge and New Orleans, LA SMSAS (combined).....	74,900
Ascension Parish East Baton Rouge Parish Jefferson Parish Livingston Parish Orleans Parish St. Bernard Parish St. Tammany Parish West Baton Rouge Parish	
HUD Field Office: Albuquerque Service Office	
Alburque, NM SMSA.....	74,900
Bernalillo County Sandoval County	
HUD Field Office: Tulsa Service Office	
Tulsa, OK SMSA.....	71,500
Creek County Mayes County Osage County Rogers County Tulsa County Wagoner County	
REGION VIII.—HUD Field Office: Denver Regional/Area Office	
Denver-Boulder, CO SMSA.....	70,500

Market area designation and local jurisdictions	Section 234(c) mortgage limit
Adams County Arapahoe County Boulder County Denver County Douglas County Gilpin County Jefferson County	
Greeley, CO SMSA, Weld County.....	70,500
Colorado Statewide non-SMSA areas.....	70,500
HUD Field Office: Helena Service Office	
State of Montana, SMSA and non-SMSA areas.....	74,900
REGION IX.—HUD Field Office: Los Angeles Area Office	
Los Angeles area office metro and non-metro areas.....	74,900
Los Angeles County San Luis Obispo County Santa Barbara County Ventura County	
HUD Field Office: San Francisco Area Office	
San Francisco area office metro and non-metro areas.....	\$74,900
Alameda County Contra Costa County Del Norte County Humboldt County Lake County Marin County Mendocino County Monterey County Napa County San Benito County San Francisco County San Mateo County Santa Clara County Santa Cruz County Solano County Sonoma County	
HUD Field Office: Fresno Service Office	
Fresno service office metro and non-metro areas.....	\$71,500
Fresno County Kern County Kings County Madera County Mariposa County Merced County Stanislaus County Tulare County	
HUD Field Office: Sacramento Service Office	
Sacramento service office metro and non-metro areas.....	\$74,900
Alpine County Amador County Butte County Calaveras County Colusa County El Dorado County Glenn County Lassen County Modoc County Nevada County Placer County Plumas County Sacramento County San Joaquin County Shasta County Sierra County Siskiyou County Sutter County Tehama County Trinity County Tuolumne County Yolo County Yuba County	
HUD Field Office: San Diego Service Office	
San Diego service office metro and non-metro areas.....	\$74,900

Market area designation and local jurisdictions	Section 234(c) mortgage limit
Imperial County San Diego County	
HUD Field Office: Santa Ana Service Office	
Santa Ana service office metro areas	\$74,900
Orange County Riverside County San Bernardino County	
Santa Ana service office metro and non-metro areas	\$71,500
Inyo County Mono County	
HUD Field Office: Las Vegas Service Office	
Las Vegas, NV SMSA, Clark County.....	\$74,900
State of Nevada—non-metro areas.....	\$74,900
Lincoln County Nye County (part)	
HUD Field Office: Reno Service Office	
Reno, NV SMSA, Washoe County	\$74,900
State of Nevada—non-metro areas.....	\$74,900
Carson City County Churchill County Douglas County Elko County Esmeralda County Eureka County Humboldt County Lander County Lyon County Mineral County Nye County (part) Pershing County Storey County White Pine County	
HUD Field Office: Phoenix Service Office	
Phoenix, AZ SMSA, Maricopa County	\$74,900
HUD Field Office: Tucson Service Office	
Tucson, AZ SMSA, Pima County.....	\$68,500
HUD Field Office: Honolulu Area Office	
State of Hawaii metro and non-metro areas.....	\$101,250
REGION X.—HUD Field Office: Seattle Area Office	
Richland-Kennewick and Yakima, WA SMSAS (combined), Yakima County.....	\$72,000
Seattle-Everett, WA SMSA	\$72,000
King County Snohomish County	
Tacoma, WA SMSA, Pierce County.....	\$71,000
HUD Field Office: Spokane Service Office	
Richland-Kennewick and Yakima, WA SMSAS (combined).....	\$72,000
Benton County Franklin County	
Spokane, WA SMSA, Spokane County.....	\$72,000
HUD Field Office: Boise Service Office	
Boise City, ID SMSA, Ada County.....	\$74,900

(Secs. 203(b)(2), 211, 234(c), National Housing Act (12 U.S.C. 1703(b)(2), 1709, 1715y(c))

Issued at Washington, D.C., December 30, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Dec. 82-286 Filed 1-6-82; 8:45 am]

BILLING CODE 4210-01-M

federal register

Thursday
January 7, 1982

Part IV

Department of the Interior

**Office of Surface Mining Reclamation and
Enforcement**

**Interim and Permanent Regulatory
Program Modifications**

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 716 and 826

Interim and Permanent Regulatory Program Modifications

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: These proposed rules include special standards for mining in previously mined areas that have not been restored to the standards of the Surface Mining Control and Reclamation Act of 1977 where there is insufficient spoil available to completely backfill the high wall.

This rule proposes a resolution of the conflicts raised in the application of the Act in those situations where a new mining operation affects previously mined lands and the new mining operation will not generate sufficient spoil to completely backfill the highwall.

DATES: Comments must be received by 5:00 p.m. on January 15, 1982 at the address indicated below. Comments received after that time will not be considered. Representatives of OSM will be available to meet with interested persons upon request before the close of the comment period. A public hearing will be held on January 15, 1982 at the location given below.

ADDRESSES: Written comments must be mailed or hand delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C. 20005.

A public hearing on the proposed rules will be held on January 15, 1982, in the Main Interior Auditorium, 18th and C Streets, N.W., Washington, D.C. Copies of all comments timely received and a summary of meetings with representatives of OSM will be prepared and made available for public review in Room 5315, Administrative Record, 1100 L Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Raymond E. Aufmuth, Physical Scientist, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343-4022.

SUPPLEMENTARY INFORMATION:**A. Background**

Past mining activities in the steep-sloped Appalachian coal provinces have left a legacy of abandoned mined lands that were not reclaimed to the standards of the Surface Mining Control and

Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*, SMCRA). In many cases highwalls and benches remain and continue to pose a hazard to the environment. Under Title IV and Section 102 of SMCRA, the Office of Surface Mining Reclamation and Enforcement (OSM) and state regulatory authorities are directed to promote the reclamation of areas abandoned prior to the enactment of SMCRA and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or impair the beneficial use of land or water resources, or endanger the health or safety of the public. Sufficient funds will not be generated over the life of the abandoned mine reclamation fund established in Title IV to fully reclaim all of the existing abandoned mined lands. Moreover, in many cases it is possible to effect the reclamation of such lands in conjunction with new mining operations. OSM's policy is to encourage such reclamation of previously mined lands where possible.

The Commonwealth of Virginia has brought to OSM's attention an ambiguity in the application of the provisions of SMCRA which will result in unnecessary damage to the environment and discourage the reclamation of previously mined lands during new mining operations. This situation exists in relation to certain previously contour-mined areas where spoil was placed on the outslope. Because of the past practices, surface mining operations that take an additional cut along the contour may not generate sufficient spoil material to cover the entire highwall. Under such conditions, the only viable option to backfilling the mined area is either to not mine such areas, thereby leaving the reclamation responsibility to the regulatory authority under Title IV, or to create a borrow area where additional backfill material can be retrieved. This may result in disturbance of areas otherwise unaffected by the mining operation and greater overall environmental damage than leaving a portion of the highwall. It is OSM's belief that in enacting SMCRA, Congress did not intend either result.

This rule proposes a resolution of the conflicts raised in the application of the Act in those situations where a new mining operation affects previously mined lands and the new mining operation will not generate sufficient spoil to completely backfill the highwall.

B. Extent of Problem

It is difficult to accurately determine the amount of strippable reserves that are located in areas that have been previously mined. Available historical

data on mining in southwestern Virginia, for example, indicates that the area was first mined by small underground mining operations. Many of these areas were subsequently surface mined after the development of suitable equipment. Most of the coal outcrops that were not mined were either uneconomical or located in extremely inaccessible areas. A study of the mined areas in southwestern Virginia indicates that over 71,000 acres of land have been disturbed by surface effects of mining operations and that approximately 14.6 million linear feet or 2,765 miles of previously mined highwall remains. These disturbed areas encompass the great majority of the coal outcrop areas that are amenable to surface mining methods today.

A study of strippable reserves completed by the U.S. Bureau of Mines in 1971 (U.S. Department of the Interior, USBM, 1971) supplemented by mining production data compiled by the Keystone Coal Industry Manual (Keystone Coal Industry Manual, 1973 through 1979) indicates remaining strippable reserves of approximately 123 million short tons of coal in the southwestern Virginia coal field, with a cumulative production in excess of that amount from strip mines over the past ten years. These statistics indicate that the vast majority of surface coal production in southwestern Virginia over the next 10 to 20 years will have to occur in reserves that were not economical to extract in 1971. This production is expected to result primarily from the re-mining of previously mined areas.

The volume of borrow material required to cover the existing highwalls will, in many cases, be enormous. In a typical situation involving an existing bench on a 40 percent slope, backfilling just 1,000 feet of highwall could require as much as two million cubic feet of borrow material and could result in the disturbance of over nine acres of borrow area to reclaim less than one acre of existing bench. This problem is compounded by the topography and geology of southwestern Virginia. Because of the steep slopes and thin soil horizons, there is a short supply of accessible borrow material. Much of the material can be expected to come from the valley bottoms, where the soil is more plentiful and accessible. However, the use of valley floors for borrow materials will create conflicts with other potential land uses for those areas. Virginia has indicated to the OSM that they have already encountered several specific situations there operators have been forced to dig borrow pits to obtain

sufficient fill material to eliminate the highwall. This information has been requested from the Commonwealth of Virginia and when received will be placed in the administrative record of this rulemaking.

C. Legal Basis

Sections 515(b)(3) and 515(d)(2) of SMCRA impose on operators mining in steep slope areas an obligation to backfill to cover completely the highwall. This requirement is implemented in the initial program regulations at 30 CFR 716.2(a)(2) and in the permanent program regulations at 30 CFR 826.12(b). Congress' decision to impose this standard was based on its understanding that "[i]n virtually all cases of contour mountain mining, sufficient spoil by volume is created to return the mine site to approximate original contour. . . . The swell property of the materials removed (overburden) assures this condition with present stripping ratios." H.R. Rep. 95-218, 95th Cong., 1st Sess. at 96-97 (1977).

It is plain from the legislative history, however, that Congress did not consider the application of highwall elimination requirements to previously mined areas where operators must excavate borrow pits to comply. As Congress noted: "It should be emphasized . . . that a reasonable interpretation of H.R. 2 cannot justify the assertion that the bill requires . . . the useless act of digging a new pit to obtain fill material to achieve full restoration of the original topography." *Id.*

OSM is concerned that application of its regulations does require the "useless act of digging a new pit to obtain fill material." The economics of coal recovery today differ from those that existed during the period of congressional consideration of legislation which culminated in the enactment of SMCRA. As a result, the Nation's recoverable reserve base has expanded to include many previously mined areas. However, expending SMCRA to such existing unnatural conditions exposes latent difficulties in its application. OSM believes it has an obligation to assist the states in resolving such conflicts and to develop regulations consistent with the intentions of Congress.

The policy proposed in these regulations is consistent with the stated purposes of the SMCRA to (1) "promote the reclamation of mined areas left without adequate reclamation . . ." Section 102(h); (2) "assure that surface coal mining operations are so conducted as to protect the environment," Section 102(d); (3) "assure that the coal supply essential to the Nation's energy

requirements and to its economic and social well-being is provided and strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy," Section 102(f); (4) "assist the States in developing and implementing a program to achieve the purposes of [SMCRA]," Section 102(g); and (5) insure that operators "cover completely the highwall and return the site to the approximate original contour, with material which will maintain stability following reclamation," Section 515(d) (so long as such language is strictly interpreted to apply to natural premining conditions). Given the legislative history of the provision, Congress' concern that the backfilled material maintain stability following reclamation, the changing economics of coal mining today, Congress' desire to effect the reclamation of abandoned mined lands, and the potential damage to the environment possible through a different application of SMCRA's standards, OSM believes the proposed rule herein to be a reasonable construction of the Act's provisions.

OSM solicits comments on the effects of the proposed rule to areas other than the southwestern coalfields of Virginia, specifically with respect to the extent of the circumstances under which strict application of OSM regulatory provisions will result in unnecessary or potentially severe environmental damage when remaining previously mined areas, and the desirability of effecting the reclamation of previously mined areas in conjunction with new mining operations.

D. Proposed Changes in Regulations

The current regulations at 30 CFR 716.2(b) (initial program) and 30 CFR 826.12(b) (permanent program) require complete covering of the highwall. The proposed regulations would incorporate into Parts 716 and 826 an exception from the requirement for complete elimination of the highwall in previously mined areas where the following standards are met:

1. The highwall is reclaimed to an environmentally acceptable condition and eliminated to the maximum extent practical using all reasonably available spoil;
2. The volume of all reasonably available spoil over the entire mining area is demonstrated in writing to the regulatory authority to be insufficient to achieve the approximate original contour that existed prior to any mining;
3. The operator assures maximization of recovery of the coal resource so that

the surface will not be further reaffected;

4. Backfilling meets stability, public safety, environmental protection and drainage requirements of SMCRA;

5. The operation is conducted to prevent disturbance of spoil on the outslope from previous mining unless such disturbance will not cause instability, or increase potential for damage to the environment and/or danger to public health and safety; and

6. Any remaining highwall remnant is stable.

For the purposes of these proposed regulations spoil should be deemed reasonably available if it is located at or near the permit site, is accessible and available for use and when rehandled will not cause a hazard to public safety or significant damage to the environment. OSM anticipates that the required showing that insufficient spoil is available could be demonstrated by certification of a registered professional engineer.

These proposed rules are not intended to apply where the mining is first cut, auger, second cut with sufficient reasonably available spoil to achieve AOC, or nonsteep slope operations. OSM solicits comments on whether these rules should be extended to any of these mining situations, particularly with respect to auger mining on a pre-existing bench. Such comments should address both the technical and legal justification for extending or not extending these rules.

In proposing these regulations, OSM is concerned that operators may be discouraged from mining far enough into a mountain or hillside to obtain sufficient spoil to eliminate the highwall. This could adversely impact on the explicit requirement of SMCRA to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffected the land in the future through surface coal mining can be minimized (Section 515(b)(1)). Accordingly, the proposed regulations specifically require a showing that the mining operations are designed to achieve maximum recovery of the coal resource given economic and technical constraints. OSM anticipates that this can be demonstrated through a showing of how far mining would have to proceed into the mountain before enough spoil would be available to reclaim the entire highwall and discussion of the reasons such additional mining is not technically or economically feasible. This showing would allow the regulatory authority to gauge whether the operator is maximizing recovery of the coal

resource or seeking to avoid compliance with the highwall elimination standards. OSM solicits comments on other methods in which maximization of coal recovery can be assured.

The Department of the Interior has determined that this is not a major rule and that it does not require a Regulatory Analysis under Executive Order 12291.

30 CFR 716.2(a) and 826.12(b) would establish information collection requirements which will be submitted to the Office of Management and Budget (OMB) for approval as required by 44 U.S.C. 3507. The information required by 30 CFR 716.2(a) and 826.12(b) would be used by the regulatory authority to determine whether or not the performance standards of 30 CFR Parts 716 and 826 could be met. The information required by 30 CFR 716.2(a) and 826.12(b) is mandatory.

The Department of the Interior has determined that this document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under Pub. L. 96-354.

OSM has prepared a draft environmental assessment (EA) on this rule that reaches as interim conclusion that this rule should not significantly affect the quality of the human environment. The draft EA is on file in the OSM Administrative Records Office at the address listed in the "Addresses" section of the preamble. A final EA will be completed before issuance of the final rule. OSM may determine at a later date that this rulemaking and related rulemakings under Pub. L. 95-87 have cumulative effects on the environment. At that time, OSM will prepare any further environmental analysis required by the National Environmental Policy Act.

Dated: September 14, 1981.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 716—SPECIAL PERFORMANCE STANDARDS

The regulations at 30 CFR Parts 716 and 826 are proposed to be amended as follows:

It is proposed to amend § 716.2 by revising paragraph (b) to read as follows:

§ 716.2 Steep-slope mining.

* * * * *

(b) The disturbed area shall be backfilled and graded to comply with the provisions of Section 715.14 of this chapter to return the site to the approximate original contour and completely cover the highwall; *Provided, however,* that where operations affect previously mined areas that were not reclaimed to the standards of this part and the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the highwall and achieve the approximate original contour that existed prior to any mining, the new highwall shall be eliminated to the maximum extent practical in accordance with the following criteria:

(1) In each case, the person who conducts the surface coal mining and reclamation operation must demonstrate to the regulatory authority, using standard geotechnical analysis, that the minimum static factor of safety for the stability of all portions of the backfill is at least 1.3.

(2) All spoil generated by the mining operation or other reasonably available spoil shall be used to backfill the area so as to eliminate the highwall to the maximum extent practical.

(3) The backfill shall be graded to a slope which is compatible with the postmining land use and which provides adequate drainage and long-term stability.

(4) Any remnant of the highwall shall be made stable and not pose a hazard to the public health or safety, or the environment.

(5) Spoil from previous mining operations placed on the outcrops shall not be disturbed unless such disturbance will not cause instability of the remaining spoil or increase the potential for damage to the environment and/or danger to the public health and safety.

(6) The operation shall be designed to achieve maximum recovery of the coal resource given economic and technical constraints.

* * * * *

PART 826—SPECIAL PERMANENT PERFORMANCE STANDARDS—OPERATIONS ON STEEP SLOPES

It is proposed to amend § 826.12 by revising paragraph (b) to read as follows:

§ 826.12 Steep slopes: Performance standards.

* * * * *

(b) The disturbed area shall be backfilled and graded to comply with the provisions of 30 CFR 816.101-816.106 and 30 CFR 817.101-817.106, to return the site to the approximate original contour and completely cover the highwall; *Provided, however,* that where operations affect previously mined areas that were not reclaimed to the standards of this Part and the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the highwall and achieve the approximate original contour that existed prior to any mining, the new highwall shall be eliminated to the maximum extent practical in accordance with the following criteria:

(1) In each case, the person who conducts the surface coal mining and reclamation operation must demonstrate to the regulatory authority, using standard geotechnical analysis, that the minimum static factor of safety for the stability of all portions of the backfill is at least 1.3.

(2) All spoil generated by the mining operation or other reasonably available spoil shall be used to backfill the area so as to eliminate the highwall to the maximum extent practical.

(3) The backfill shall be graded to a slope which is compatible with the postmining land use and which provides adequate drainage and long-term stability.

(4) Any remnant of the highwall shall be made stable and not pose a hazard to public health or safety, or the environment.

(5) Spoil from previous mining operations placed on the outcrops shall not be disturbed unless such disturbance will not cause instability of the remaining spoil or increase the potential for damage to the environment and/or danger to the public health and safety.

(6) The operation shall be designed to achieve maximum recovery of the coal resource given economic and technical constraints.

* * * * *

[FR Doc. 82-430 Filed 1-6-82; 8:45 am]

BILLING CODE 4310-05-M

federal register

Thursday
January 7, 1982

Part V

Office of Management and Budget

**Proposed Revision of OMB Circular A-21,
"Cost Principles for Educational
Institutions"; Opportunity to Comment**

OFFICE OF MANAGEMENT AND BUDGET

Comment; Proposed Revision of OMB Circular A-21, "Cost Principles for Educational Institutions"

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed revision of Circular A-21, "Cost principles for educational institutions." The revision would modify the rules dealing with the allowability of interest costs, and the reporting and recordkeeping requirements pertaining to salary costs. A revision of the definition section, describing reporting categories, is also proposed.

At the present time, Circular A-21 does not recognize interest costs. It states that costs incurred for interest on borrowed capital or temporary use of endowment funds are unallowable. In January 1981, a notice was published in the *Federal Register* inviting comments on a proposed revision which, if approved, would have recognized interest costs related to newly construction or acquired buildings. Over 100 comments were received. Most of the comments supported allowability of interest costs but recommended that it be broadened to include capital equipment and renovations. A proposal pertaining to allowability of independent research and development costs received a mixed reception, and no changes in that area are proposed here.

The proposal concerning documentation of salary costs is being made as a result of numerous expressions of concern by faculty members and university spokespersons. The proposed language is based on recommendations by the American Association of Universities and the Council of Scientific Society Presidents. It gives universities greater flexibility in documenting salary costs. It does so by doing away with the current required methods for documenting such costs—monitored workload and personnel activity reports. It replaces these methods with general principles for documentation and criteria for acceptable methods. Three examples of acceptable methods are set forth—the Plan-Confirmation Method, After-the-fact Activity Records, and Multiple Confirmation Records. In addition, the proposal would permit other methods, consistent with the general principles and criteria, to be used by agreement with the responsible Federal agency. The use of any of these methods would be expected to reduce the paperwork burden on faculty members while still

providing necessary accountability for the use of public funds.

The proposed revision would define two new major university functions—sponsored instruction and training, and university research. In arguing for inclusion of these new categories, university groups said that current definitions fail to distinguish clearly between sponsored and other activities. The proposed changes would allow institutions to make this distinction clear by permitting the separation of the categories of sponsored research, university research, and sponsored instruction and training, while making it clear that instruction and departmental research are treated as a single function in colleges and universities. University groups argued that consistent application of these definitions in the allocation of indirect costs to institutional functions and in the calculation of the distribution base used for derivation of the indirect cost rate would help to assure equitable treatment, while providing flexibility needed to accommodate the diversity of the institutions' accounting systems. We recognize that use of the new reporting categories could add to the detail now required in faculty reports. However, use of the new categories is optional, and universities not needing or wanting to use these categories would not be required to call for additional faculty reporting.

These proposed changes are in furtherance of OMB's effort to grant regulatory relief and bring about greater consistency in Federal grant regulations. The proposal is not expected to have an annual effect on the economy of \$100 million or more; therefore, it is not considered to be a major rule as defined in Executive Order 12291, "Federal Regulation."

Comments should be submitted in duplicate to: Financial Management Branch, Budget Review Division, Office of Management and Budget, Room 6002, New Executive Office Building, Washington, D.C. 20503. All comments should be received on or before March 8, 1982.

FOR FURTHER INFORMATION, CONTACT:
George Northway, 202/395-4773.

SUPPLEMENTARY INFORMATION: The proposed changes to OMB Circular A-21 are set forth in Attachment 1.

Linda L. Smith,

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The proposed language is shown as follows:

B. Definition of Terms

1. *Major functions of an institution* refers to instruction, organized research, other

sponsored activities, and other institutional activities as defined below:

a. *Instruction* means the teaching and training activities of an institution. Except for research training as provided in c below, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a non-credit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school division or an extension division. Also considered part of this major function are departmental research, and, where agreed to, university research.

(1) *Sponsored instruction and training* means specific instructional or training activity established by grant, contract, or cooperative agreement. For purposes of the cost principles, this activity may be considered a major function even though an institution's accounting treatment may include it in the instruction function.

(2) *Departmental research* means research development and scholarly activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental research, for purposes of this document, is not considered as a major function but as a part of the instruction function of the institution.

b. *Organized research* means all research and development activities of an institution that are separately budgeted and accounted for. It includes:

(1) *Sponsored research* means all research and development activities that are sponsored by Federal and non-Federal agencies and organizations. This term includes activities involving the training of individuals in research techniques (commonly called research training) where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(2) *University research* means all research and development activities that are separately budgeted by the institution under an internal application of institutional funds. University research, for purposes of this document, may be considered a part of the instruction function, or may be combined with sponsored research under the function of organized research, or may be treated as a separate major function, as agreed to with the cognizant agency.

c. d becomes c.

d. e becomes d.

J. Compensation for Personal Services

6. b. (1) *General Principles:*

(a) The distribution of salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with the generally accepted practices of colleges and universities. Institutions may treat all activities not directly charged to sponsored agreements, and not needed to be distributed to more than one activity for purposes of identifying indirect costs and the functions to which they are allocable, in a residual category, the components of which are not required to be separately documented.

(b) The apportionment of employees' salaries and wages which are chargeable to more than one sponsored agreement or other cost objective will be accomplished by methods which will (1) be in accordance with Sections A-2 and C above, (2) produce an equitable distribution of charges for employees' activities, and (3) distinguish the employees' direct activities from their indirect activities.

(c) In the use of any methods for apportioning salaries, it is recognized that, in an academic setting, teaching, research, service, and administration are often inextricably intermingled. A precise assessment of factors that contribute to costs is not always feasible, nor is it expected. Reliance, therefore, is placed on estimates in which a degree of tolerance is appropriate.

(d) There is no single best method for documenting the distribution of charges for personal services.

Methods for apportioning salaries and wages, however, must meet the criteria specified in J.6.b.(2) below. Examples of acceptable methods are contained in J.6.c. below. Other methods which meet the criteria specified in J.6.b.(2) below also shall be deemed acceptable, if a mutually satisfactory alternative agreement is reached.

(2) Criteria for Acceptable Methods:

(a) The payroll distribution system will (i) be incorporated into the official records of the institution, (ii) reasonably reflect the activity for which the employee is compensated by the institution, and (iii) encompass both sponsored and all other activities on an integrated basis but may include the use of subsidiary records. (Compensation for incidental work described in J.6.a. need not be included.)

(b) The method must recognize the principle of after-the-fact confirmation or determination so that costs distributed represent actual costs, unless a mutually satisfactory alternative agreement is reached.

Direct cost activities and indirect cost activities may be confirmed by responsible persons with suitable means of verification that the work was performed. Confirmation by the employee is not a requirement for either direct or indirect cost activities if other responsible persons make appropriate confirmations.

(c) The payroll distribution system will allow confirmation of activity allocable to each sponsored agreement and each of the categories of activity needed to identify indirect costs and the functions to which they are allocable. The activities chargeable to indirect cost categories or the major functions of the institution for employees whose salaries must be apportioned (see J.6.b.1.(b) above), if not initially identified as separate categories, may be subsequently distributed by any reasonable method mutually agreed to, including, but not limited to, suitably conducted surveys, statistical sampling procedures, or the application of negotiated fixed rates.

(d) Practices vary among institutions and within institutions as to the activity constituting a full workload. Therefore, the payroll distribution system may reflect categories of activities expressed as a percentage distribution of total activities.

(e) Direct and indirect charges may be made initially to sponsored agreements on the basis of estimates made before services are performed. When such estimates are used, significant changes in the corresponding work activity must be identified and entered into the payroll distribution system. Short-term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term, such as an academic period.

(f) The system will provide for independent internal evaluations to ensure the system's effectiveness and compliance with the above standards.

(g) For systems which meet these standards, the institution will not be required to provide additional support or documentation for the effort actually performed.

J. 6.c. Examples of Acceptable Methods for Payroll Distribution:

1. Plan-Confirmation: Under this method the distribution of salaries and wages of professorial or professional staff applicable to sponsored agreements is based on budgeted, planned, or assigned work activity, updated to reflect any significant changes in work distribution. A plan-confirmation system used for salaries and wages charged directly or indirectly to sponsored agreements will meet the following standards:

(a) A system of budgeted, planned, or assigned work activity will be incorporated into the official records of the institution and encompass both sponsored and all other activities on an integrated basis. The system may include the use of subsidiary records.

(b) The system will reasonably reflect only the activity for which the employee is compensated by the institution (compensation for incidental work described in J.6.a. need not be included). Practices vary among institutions and within institutions as to the activity constituting a full workload. Hence, the system will reflect categories of activities expressed as a percentage distribution of total activities. (But see Section H for treatment of indirect costs under the simplified method for small institutions.)

(c) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify indirect costs and the functions to which they are allocable. The system may treat indirect cost activities initially within a residual category and subsequently determine them by alternate methods as discussed in J.6.b.(2)(c).

(d) The system will provide for modification of an individual's salary or salary distribution commensurate with any significant change in the employee's work activity. Short-term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term such as an academic period. Whenever it is apparent that a significant change in work activity which is directly or indirectly charged to sponsored agreements will occur or has occurred, the change will be documented

over the signature of a responsible official and entered into the system.

(e) At least annually a statement will be signed by the employee, principal investigator, or responsible official(s) using suitable means of verification that the work was performed, stating that salaries and wages charged to sponsored agreements as direct charges, and to residual, indirect cost or other categories are reasonable in relation to work performed.

(f) The system will provide for independent internal evaluations to ensure the system's integrity and compliance with the above standards.

(g) In the use of this method, an institution shall not be required to provide additional support or documentation for the effort actually performed.

2. After-the-fact Activity Records: Under this system the distribution of salaries and wages by the institution will be supported by activity reports as prescribed below.

(a) Activity reports will reflect the distribution of activity expended by employees covered by the system (compensation for incidental work as described in J.6.a. need not be included).

(b) These reports will reflect an after-the-fact reporting of the percentage distribution of activity of employees. Charges may be made initially on the basis of estimates made before the services are performed, provided that such charges are promptly adjusted if significant differences are indicated by activity records.

(c) Reports will reasonably reflect the activities for which employees are compensated by the institution. To confirm that the distribution of activity represents a reasonable estimate of the work performed by the employee during the period, the reports will be signed by the employee, principal investigator, or responsible official(s) using suitable means of verification that the work was performed.

(d) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify indirect costs and the functions to which they are allocable. The system may treat indirect cost activities initially within a residual category and subsequently determine them by alternate methods as discussed in J.6.b.(2)(c).

(e) For professorial and professional staff, the reports will be prepared each academic term, but no less frequently than every six months. For other employees, unless alternate arrangements are agreed to, the reports will be prepared no less frequently than monthly and will coincide with one or more pay periods.

(f) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as records for this purpose provided that they meet the requirements in (a) through (e) above.

3. Multiple Confirmation Records: Under this system the distribution of salaries and wages of professorial and professional staff will be supported by records which certify separately for direct and indirect cost activities as prescribed below.

(a) For employees covered by the system there will be direct cost records to reflect the distribution of that activity expended which is to be allocable as direct cost to each sponsored agreement. There will also be indirect cost records to reflect the distribution of that activity to indirect costs. These records may be kept jointly or separately (but are to be certified separately, see below).

(b) Salary and wage charges may be made initially on the basis of estimates made before the services are performed provided that such charges are promptly adjusted if significant differences occur.

(c) Institutional records will reasonably reflect only the activity for which employees are compensated by the institution (compensation for incidental work as described in J.6.a. need not be included).

(d) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify indirect costs and the functions to which they are allocable.

(e) To confirm that the distribution of activity represents a reasonable estimate of the work performed by the employee during the period, the record for each employee will include:

(1) The signature of the employee or of a person having direct knowledge of the work, confirming that the record of activities allocable as direct costs of each sponsored agreement is appropriate.

(2) The record of indirect costs will include the signature of responsible person(s) who use suitable means of verification that the

work was performed and is consistent with the overall distribution of the employee's compensated activities.

These signatures may all be on the same document.

(f) The reports will be prepared each academic term, but no less frequently than every six months.

(g) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as records for this purpose provided they meet the requirements in (a) through (f) above.

Related Changes

Change F.4.a.(2)(a) (in Departmental Administration Expenses), sentence 2, to read:

Salaries of professorial and professional staff whose responsibilities to the institution require administrative work that benefits sponsored projects may also be included to the extent that the portion charged to departmental administration is determined in accordance with Section J.6.

Change F.5.a. (in Sponsored Projects Administration), Sentence 3, to read:

The salaries of professorial and professional staff whose responsibilities to the institution require administrative work that benefits sponsored projects may also be included to the extent that the portion charged to sponsored agreements administration is determined in accordance with Section J.6.

Change F.7.a. (in Student Administration and Services), sentence 2, to read:

The salaries of members of the academic staff whose responsibilities to the institution require administrative work that benefits sponsored projects may also be included to the extent that the portion charged to Student Administration is determined in accordance with Section J.6.

Delete J.6.c. *Monitored Workload*.

Delete J.6.d. *Personnel Activity Reports*.

Relabel J.6.e. as J.6.d.

Relabel J.6.f. as J.6.e.

Paragraph J.17.

Add at the end of section a., "except as indicated in e. below."

Add new section e., as follows:

"e. The cost of interest directly associated with buildings acquired on or after July 1, 1982, and major reconstruction and remodeling of existing buildings completed on or after July 1, 1982, and used in support of sponsored agreements, is allowable. However, the total cost of the buildings (including depreciation or use allowance, operation and maintenance costs, interest, etc.) may not exceed the rental cost of comparable facilities in the same locality. The cost of interest directly associated with the acquisition or fabrication of capital equipment acquired on or after July 1, 1982, used in support of sponsored agreements and costing \$25,000 or more for initial acquisition, is allowable if agreed to by the cognizant agency."

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Reader Aids

Federal Register

Vol. 47, No. 4

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INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of Documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual

523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
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Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-128.....	4
129-588.....	5
589-744.....	6
745-934.....	7

CFR PARTS AFFECTED DURING JANUARY

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

Proclamations:	
4707 (Amended by Proc. 4889).....	1
4889.....	1
November 14, 1912 (Revoked by PLO 6101).....	769

5 CFR

Proposed Rules:	
Ch. I.....	154

7 CFR

Subtitle B.....	745
2.....	5, 6
68.....	129
282.....	532
425.....	6
631.....	130
800.....	131
905.....	589
907.....	746
944.....	747
1924.....	590
1942.....	590

Proposed Rules:

102.....	631
979.....	631
1006.....	814
1012.....	814
1013.....	814
1033.....	814
1036.....	814
1040.....	814
1124.....	814
1125.....	814
1133.....	814
1134.....	778, 814
1135.....	814
1136.....	778, 814
1137.....	778, 814
1139.....	814
1865.....	33
1951.....	33

8 CFR

238.....	131
316a.....	132

9 CFR

Ch. I.....	745
Ch. II.....	745
Ch. III.....	745
92.....	591

10 CFR

40.....	8
70.....	8
71.....	596
73.....	600
150.....	8

504.....	749
508.....	749

Proposed Rules:

378.....	817
500.....	161
501.....	161
503.....	161

12 CFR

5.....	132
203.....	750
213.....	755
217.....	9
226.....	755

Proposed Rules:

702.....	633
----------	-----

13 CFR

120.....	9
----------	---

14 CFR

21.....	756
39.....	10-14, 759
71.....	15-18, 759, 760
73.....	18
75.....	18
201.....	132
207.....	134
208.....	134
212.....	135
231.....	137
245.....	761
246.....	762
298.....	604
302.....	138
321.....	139
380.....	140
399.....	140

Proposed Rules:

Ch. I.....	817
71.....	36-38
91.....	818
296.....	633
297.....	633

15 CFR

50.....	18
371.....	609
373.....	609
376.....	609
378.....	609
379.....	141
385.....	141, 609
390.....	144
399.....	141, 609

16 CFR

305.....	18, 19
----------	--------

17 CFR

201.....	609
----------	-----

18 CFR
 Ch. I.....613
 270.....614
 282.....20
Proposed Rules:
 141.....39
 271.....39, 638
 273.....638
 274.....638

20 CFR
 Ch. I.....145
 Ch. V.....145
 Ch. VI.....145
Proposed Rules:
 Ch. I.....402
 Ch. V.....402
 Ch. VI.....402
 404.....642
 416.....642

21 CFR
 173.....145
 193.....616
 510.....146
 522.....146
Proposed Rules:
 20.....162
 168.....163
 310.....424, 430
 333.....436
 357.....444-512
 358.....522

24 CFR
 201.....616, 617
 203.....916
 234.....916

26 CFR
 1.....147
Proposed Rules:
 1.....163, 164
 15A.....164

29 CFR
 Subtitle A.....145
 Ch. V.....145
 Ch. XVII.....145
Proposed Rules:
 Subtitle A.....402
 Ch. V.....402
 Ch. XVII.....402
 Ch. XXV.....402
 1990.....187

30 CFR
Proposed Rules:
 Ch. I.....402
 Ch. VII.....820
 211.....819
 700.....41
 701.....41
 716.....928
 764.....41
 770.....41
 771.....41
 779.....41
 780.....41
 783.....41
 784.....41
 785.....41
 786.....41
 788.....41

816.....41
 817.....41
 825.....41
 826.....928
 828.....41
 913.....57
 921.....560
 922.....560
 937.....560
 939.....560

31 CFR
 535.....145

32 CFR
Proposed Rules:
 543.....822
 585.....190

33 CFR
Proposed Rules:
 88.....826
 89.....826

34 CFR
 624.....540
 625.....540
 626.....540
 627.....540
 674.....736
 675.....736
 676.....736
 690.....736
Proposed Rules:
 674.....908
 675.....908
 676.....908

36 CFR
 Ch. II.....745

40 CFR
 52.....762, 763
 80.....764
 81.....763
 123.....618
 180.....619-623
 762.....148, 149
Proposed Rules:
 52.....191
 180.....651-654
 775.....193

41 CFR
 Ch. 50.....145
 Ch. 60.....145
Proposed Rules:
 Ch. 60.....402

43 CFR
 428.....624
Public Land Orders:
 6100.....21
 6101.....769

44 CFR
 65.....770
 66.....770
 70.....771, 772
 67.....22
Proposed Rules:
 205.....827

45 CFR
 680.....193

681.....193
 682.....193
 683.....193
 684.....193

46 CFR
Proposed Rules:
 510.....215
 536.....655

47 CFR
 73.....150
 74.....150
Proposed Rules:
 15.....216, 836
 73.....58, 837

49 CFR
 Ch. X.....613
 830.....773
 1033.....151, 152, 624, 773, 776
 1056.....777

Proposed Rules:
 1039.....220
 1300.....220
 1310.....59

50 CFR
 611.....625
 662.....629

REMINDERS

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 January 6, 1982