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federal register

MONDAY, AUGUST 30, 1976

highlights

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reminders

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

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

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

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

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

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 22997, June 8, 1976)

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

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Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-NW-8-AD; Amdt. 39-2706]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727-100 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring either the reactivation of the static port heater or replacement of the deactivated heater with an elbow fitting and enlarging the static sensor holes on Boeing Model 727-100 series airplanes was published in FEDERAL REGISTER, Vol. 41, No. 113, page 23419, on Thursday, June 10, 1976.

Interested persons have been afforded an opportunity to participate in the making of the amendment. A number of comments requested additional time for compliance which has been provided. Some comments were against enlarging the static sense holes. However, tests conducted by the manufacturer indicate a need for hole enlargement whether heated or not, because water can be retained by the small holes under certain conditions.

A notice of proposed rule making will be issued in the near future to propose amending this AD to require enlargement of the .047 inch diameter static port sense holes to .125 inch diameter in all 727-100/200 series airplanes unless already accomplished.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BOEING: Applies to Boeing Model 727-100 series airplanes certificated in all categories with static port heater circuits deactivated.

Compliance required as indicated unless already accomplished.

To prevent the loss of altitude and airspeed reference due to a small amount of water freezing in the static port system, accomplish either of (1) or (2) below:

(1) Within the next 1,000 hours time in service after the effective date of this AD reactivate the static port heater circuits to the original FAA approved Boeing 727-100 configuration; or

(2) Within the next 2,000 hours time in service after the effective date of this AD replace the deactivated heater assembly, P/N 10-60723-1, with elbow fitting MS21908D6 in accordance with Boeing Service Bulletin 725-34-95 dated September 3, 1976, or later FAA approved service bulletins, and enlarge the static port sensing holes from .047 inch diameter to .125 inch diameter in accordance with Boeing Service Bulletin 727-34-94 (to be released) or later FAA approved service bulletins.

Notwithstanding the provisions of the above paragraph (1) the heater elements in one static system may be inoperative provided the aircraft is not flown in icing or precipitation conditions.

Boeing 727-100 airplanes already incorporating Boeing Service Bulletin 727-25-42, Revision 1, dated March 4, 1968, with elbow fitting MS21908D6 and Boeing Service Bulletin 727-34-57 dated April 7, 1968, enlarging the static sense holes are in compliance with this AD.

Equivalent modifications may be approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 1, 1976.

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

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

Issued in Seattle, Washington on August 20, 1976.

J. H. TANNER,
Acting Director, Northwest Region.

[FR Doc.76-25105 Filed 8-27-76;8:45 am]

[Docket No. 76-NW-5-AD; Amdt. 39-2698]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations, Amendment 39-2538 AD 76-05-05 to provide a repeat inspection requirement for all fuselage skin lap splices under the wing-to-body fairings on Boeing Model 747 airplanes was published in 41 CFR 27084.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One operator requested an expansion of the inspection interval for certain airplanes to 8,000 hours or 24 months and for certain other airplanes to 16,000 hours or 48 months. Several operators requested an extension of the 4,000 hour interval. Based on service experience, an expansion of the proposed inspection interval cannot be justified at this time.

One operator requested that terminating action be referenced in the AD. The AD may be amended to reflect terminating action when the proper terminating action is developed.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations, Amendment 39-2538 AD 76-05-05 is amended as follows:

A. Delete paragraph "D" and add the following paragraph:

"D. Repeat the inspection required in paragraph A above at an interval not to exceed 4,000 flight hours or 15 months whichever comes first."

B. Add the following paragraph:

"E. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the adjustment period."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 24, 1976.

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

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

Issued in Seattle, Washington, August 11, 1976.

J. H. TANNER,
Acting Director, Northwest Region.

[FR Doc.76-25107 Filed 8-27-76;8:45 am]

[Docket No. 15692; Amdt. 39-2710]

PART 39—AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale (Formerly Sud Aviation) Alouette III Helicopter Models SE-3160, SA-316B, SA-316C and SA-319B

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the incorporation of tail rotor control cables, fittings, and guides, of improved design and repetitive inspections of the new cables for proper tension and condition on certain Societe Nationale Industrielle Aerospatiale (SNIAS) Alouette III helicopters was published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18681).

Interested persons have been afforded an opportunity to participate in the making of the amendment and no objections were received.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (formerly SUD AVIATION). Applies to Alouette III Models SE-3160, SA-316B, SA-316C, and SA-319B helicopters, Serial Nos. 2032 and below, certificated in all categories.

Compliance is required as indicated.

To prevent failure of tail rotor control cables and the consequent loss of directional control, accomplish the following:

(a) Within the next 300 hours time in service after the effective date of this AD, unless already accomplished, replace tail rotor control cables, fittings, and guides with improved cables, fittings, and guides in accordance with Alouette Service Bulletin No. 65.72, dated March 29, 1971, and Alouette Service Bulletin No. 65.93, dated November 14, 1972, or their equivalents approved by the Chief, Aircraft Certification Staff, c/o American Embassy, APO New York, N.Y. 09667.

(b) Within the next 100 hours time in service after the accomplishment of the modification specified in paragraph (a) of this AD, or within the next 100 hours after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 100 hours time in service from the last inspection, inspect the cables for the proper tension, for exposed or broken wire strands, and for tearing of the wirelon coating.

NOTE.—During the inspection required by paragraph (b) of this AD, particular attention should be directed to condition of cables in the areas of the fittings, pulleys, and cable guides.

(c) If an exposed wire strand or a broken wire strand is found in any cable or tearing of the wirelon coating of any cable is found as a result of any inspection required by paragraph (b) or (c) of this AD, before further flight, replace that cable with a serviceable cable of same part number and continue to inspect the cables in accordance with paragraph (b) of this AD at intervals not to exceed 100 hours time in service from the last inspection.

(d) If, as a result of any of the inspections required by this AD, improper tension is found in any cable, adjust that cable for proper tension and continue to inspect the cables in accordance with paragraph (b) of this AD at intervals not to exceed 100 hours time in service from the last inspection.

This amendment becomes effective on September 29, 1976.

Issued in Washington, D.C. on August 23, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76-25270 Filed 8-27-76;8:45 am]

[Docket No. 76-NE-25; Amdt. 39-2702]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric Engine Models CT58-100-2, CT58-110-1, CT58-110-2, CT58-140-1 Series A&L, CT58-140-1, and CT58-140-2

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive reducing the cyclic and hourly life limits of certain compressor rear shafts in CT58 engines used in external lift operations was published in 41 FR 27084.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One operator, Evergreen Helicopters, Incorporated, registered its objections on the grounds that:

1. The load being external, rather than internal, has no effect on the operation of the engine, and
2. The record-keeping requirements are unduly burdensome.

FAA file documentation shows that the two occurrences of CT58 engine compressor rear shaft failure were associated with external lift operations. CT58 engines in nonexternal lift operations have performed satisfactorily. Analysis indicates that the flight profile of external lift operations, which includes many partial cycles, differs sufficiently from nonexternal lift operations to have a cumulative effect on the engines' total cycle count. In regard to record keeping, it is FAA's judgment that the associated inconvenience will be far outweighed by the continued airworthiness of the engines. Accordingly, adjustment of the life limits for external lift operations is required.

GENERAL ELECTRIC CO. Applies to all Genreal Electric Company Models CT58-100-2, CT58-110-1, CT58-110-2, CT58-140-1 Series A&L, CT58-140-1, and CT58-140-2 turboshaft engines incorporating compressor rear shafts, P/N 4000T29P01, P/N 4000T29P03, P/N 4010T54P01, P/N 5013T86P03, or P/N 573D384P003, and subject to external lift operation conditions which comprise more than five percent (5%) of the total time recorded on the shaft.

To ensure adequate life limit margin of compressor rear shafts listed above, the cyclic and hourly life limits for these shafts, when used in external lift operations, have been reduced below the figures currently approved. Remove from service the compressor rear shafts prior to exceeding the revised life limits listed below:

Previous Life Limit	*Revised Life Limit*
5,200 hours	3,000 hours.
9,600 cycles	5,500 cycles.

As of the effective date of this AD, shafts which are within 100 hours or 200 cycles of the revised limits, or exceed the revised limits, must be removed within 100 hours time in service or 200 cycles whichever occurs first.

NOTE 1.—Operational time in hours is defined as the time from liftoff to touchdown. A cycle is defined as any engine operating sequence involving engine start, at least one acceleration to a power required for takeoff and a shutdown. The controlling life limit is the limit that occurs first (cycles or hours).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

NOTE 2.—General Electric Company Alert Service Bulletin No. (CT58) A72-146, titled "Compressor Section-Reduction of Service Life of Compressor Rear Shaft for External Lift Operators Only," pertains to this subject.

This amendment becomes effective September 7, 1976.

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

Issued in Burlington, Massachusetts, on August 18, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-25103 Filed 8-27-76;8:45 am]

[Airworthiness Docket No. 76-WE-16-AD; Amdt. 39-2704]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed L-1011-385 Series Airplanes

There have been three incidents involving service damage to electrical wiring which resulted in fires in L-1011-385 series airplanes. Two of these incidents are believed to have been caused by electrical ignition of titanium bleed air ducting from the No. 2 engine, in the fuselage afterbody, Fuselage Station 1965, Waterline 310, on lefthand side. The third incident is believed to have been caused by the electrical ignition of hydraulic fluid just aft of the fuselage station 1860 bulkhead, left lower side in the area of the horizontal stabilizer servo, adjacent to the APU bleed air duct.

Since these conditions are likely to exist or develop in other airplanes of the same type, an airworthiness directive is being issued to require on a one-time basis: (a) Inspection of the electrical wire bundles for integrity and proper clearance in the aft fuselage as described in Lockheed Alert Service Bulletin 093-24-A058; and (b) inspection of electrical wire bundle outboard of access door at Fuselage Station 1860 and Buttock Line

240, left side; and (c) inspection during or after pressurization of the left and right hand horizontal stabilizer servo units and related hydraulic systems in Lockheed L–1011–385 airplanes. Reports of the inspection results are requested from the operators.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, is amended by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA. Applies to Lockheed L–1011–385 Series airplanes certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent fires which may be ignited by damaged electrical wires, accomplish the following:

(a) Within the next 300 hours time in service after the effective date of this AD.

(1) Inspect the No. 2 generator feeder cables located in the 1519938–103 ECS duct area on the left side of the No. 2 engine S-duct, between FS–1956 and FS–1975, at approximately WL–310, for a minimum clearance of one-half inch between the cables and the closest part of the ECS duct insulated cover in accordance with Lockheed Alert Service Bulletin 093–24–A058, dated June 3, 1976 or later FAA-approved revision.

(2) If the clearance is less than one-half inch, adjust to provide adequate clearance before further flight in accordance with Lockheed Service Bulletin 093–24–A058, dated June 3, 1976 or later FAA-approved revision.

(b) Within the next 300 hours time in service after the effective date of this AD.

(1) Inspect the electrical wire bundles just aft of the lower left hand side of FS–1860 bulkhead which are routed adjacent to the APU bleed air duct, for proper clamping and condition of insulation. If insulation damage is found, check closely for wire damage.

(2) If damage to insulation or wires is found, before further flight, repair in accordance with FAA-approved maintenance procedures.

(c) Within the next 300 hours time in service after the effective date of this AD.

(1) Inspect the left hand and right hand horizontal stabilizer servo units by applying 3,000 PSI hydraulic pressure to each hydraulic system and observing for signs of hydraulic fluid misting of spraying type of leakage, or examine left hand and right hand horizontal servo unit transfer tube areas for signs of external leakage immediately after hydraulic systems have been shut down.

(2) If hydraulic leaks are found, before further flight, repair in accordance with FAA-approved maintenance procedures.

(d) It is requested that a written report on the results of the inspections required by paragraphs (b) and (c), either positive or negative, be forwarded to:

Chief, Aircraft Engineering Division, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, CA 90009.

(Reporting approved by the Office of Management and Budget under OMB 04–RO174).

(e) Equivalent procedures may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued per FAR's 21.197 and 21.199, to authorize flights to a base for accomplishment of the inspections required by this AD.

This amendment becomes effective September 2, 1976.

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

Issued in Los Angeles, California on August 18, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76–25104 Filed 8–27–76;8:45 am]

[Airworthiness Docket No. 75–WE–25–AD; Amdt. 39–2703]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed L–1011–385 Series Airplanes Excluding L–1011–385–1–14 and L–1011–385–1–15

Amendment 39–2186 (40 FR 17833), AD 75–09–12, requires that the autopilot be disconnected during a go-around in L–1011–385 series airplanes. After issuing Amendment 39–2186, the agency has determined that corrective equipment design changes developed by the Lockheed-California Company will preclude recurrence of the type of malfunction which resulted in the issuance of AD 75–09–12.

Therefore, the AD is being amended to (1) revise the applicability statement and (2) permit an operator of Model L–1011–385 series airplanes to eliminate the operating limitation by removing the cockpit placard which states: "Autopilot must be disconnected for go-around," after complying with Lockheed Service Bulletins No. 093–22–077, dated December 11, 1975, and No. 093–22–082, dated May 5, 1976, or later FAA-approved revisions.

Lockheed models L–1011–385–1–14 and L–1011–385–1–15 were not type certificated at the time Amendment 39–2186 was published; these models were subsequently type certificated with, as part of type design, a placard like the one specified in paragraph number 1 of Amendment 39–2186 and with a corresponding Airplane Flight Manual Limitation. For these two airplane models, a type design change has been approved to permit removal of the limitation and placard after accomplishment of the appropriate modifications. Therefore, this amendment specifically excludes these models.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–2186 (40 FR 17833), AD 75–09–12 is amended as follows:

(a) Revise the applicability statement to read:

"Lockheed-California. Applies to Lockheed L–1011–385 series airplanes, except models L–1011–385–1–14 and L–1011–385–1–15, certificated in all categories with Collins FCS–110 autopilot installed".

(b) Add a new paragraph 3:

"3. The operating limitation specified in paragraph 2. no longer applies and the cockpit placard may be removed by accomplishment of the following:

i. Replacing the AFCS Trim Augmentation Computer, Lockheed P/N 672443–109 or –113 with 672443–115 computer, in accordance with Lockheed Service Bulletin 093–22–077, dated December 11, 1975, or later FAA-approved revisions; and

ii. Replacing both AFCS Pitch Computers, Lockheed P/N672314–177, –179, –181, –183 and –185 with 672314–157, –159, –161, –163 and –165 computers, respectively, in accordance with Lockheed Service Bulletin 093–22–082, dated May 5, 1976, or later FAA-approved revisions".

This amendment becomes effective September 2, 1976.

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

Issued in Los Angeles, California on August 18, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76–25100 Filed 8–27–76;8:45 am]

[Airspace Docket No. 76–WE–20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On July 19, 1976, a notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 29715) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new transition area for Window Rock Airport, Window Rock, Arizona.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 Gmt, November 4, 1976.

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

Issued in Los Angeles, California on August 19, 1976.

LYNN L. HINK,
Acting Director, Western Region.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (41 FR 440) the following transition area is added:

WINDOW ROCK, ARIZONA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Window Rock Airport (latitude 35°39'29" N, longitude 109°03'28" W) and within 3 miles each side of the Gallup VORTAC 318° radial, extending from the 5-mile radius area to the Gallup VORTAC.

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

Issued in Los Angeles, California on July 6, 1976.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.76-25102 Filed 8-27-76;8:45 am]

[Airspace Docket No. 76-NW-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Modification of Control Zone

On July 12, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 28535) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would modify the description of the Port Angeles, Washington, Control Zone.

Interested persons were given 30 days in which to submit written data, views, or arguments. No objections were received.

In consideration of the foregoing, the amendment is hereby adopted without change.

Effective Date: This amendment shall be effective 0901 Gmt, November 4, 1976.

(Secs. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, on August 18, 1976.

J. H. TANNER,
Acting Director, Northwest Region.

In § 71.171 (41 FR 418), amend the description of the Port Angeles control zone to read:

PORT ANGELES, WASHINGTON

Within a 5-mile radius of Williams R. Fairchild International Airport (Latitude 48°07'10" N, Longitude 123°29'44" W), including the airspace within 2 miles either side of the Port Angeles VOR 083° radial extending from the 5-mile radius zone to 4 miles east of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. Effective date and time will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.76-25106 Filed 8-27-76;8:45 am]

[Airspace Docket No. 76-EA-58]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Revocation of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the New Castle, Pa., Transition Area (41 FR 556).

The New Castle, Pennsylvania TVOR facility will be decommissioned on November 4, 1976. Two VOR instrument approach procedures to the New Castle Municipal Airport have been cancelled. Therefore, there is no longer a requirement for the 700-foot floor transition area.

Since the amendment relieves a restriction and imposes no additional burden on anyone, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, November 4, 1976.

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to revoke the New Castle, Pennsylvania, 700-foot floor transition area in its entirety.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on August 10, 1976.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.76-25099 Filed 8-27-76;8:45 am]

[Docket No. 16031; Amdt. No. 1035]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPS are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective October 7, 1976.

Dothan, AL—Dothan Arpt., VOR-A, Amdt. 7.
Brunswick, GA—Malcolm McKinnon Arpt., VOR Rwy 4, Amdt. 10.
Macon, GA—Lewis B. Wilson Arpt., VOR Rwy 23, Original.
Kaanapali, Maui, HI—Kaanapali Arpt., VOR-A, Amdt. 2.
Bunkie, LA—Bunkie Muni. Arpt., VOR/DME-A, Amdt. 1.
DeQuincy, LA—DeQuincy Industrial Airpark, VOR/DME-A, Amdt. 3.
Lawrence, MA—Lawrence Muni. Arpt., VOR Rwy 23, Amdt. 4.
Taunton, MA—Taunton Muni. Arpt., VOR-A, Amdt. 5.
Wildwood, NJ—Cape May County Arpt., VOR Rwy 23, Amdt. 7.
Coatesville, PA—Chester County, G. O. Carlson, VOR Rwy 29, Amdt. 1.
North Myrtle Beach, SC—Myrtle Beach Arpt., VOR Rwy 5, Amdt. 12.
North Myrtle Beach, SC—Myrtle Beach Arpt., VOR Rwy 23, Amdt. 13.
Huron, SD—Huron Regional Arpt., VOR Rwy 12, Amdt. 16.
Sioux Falls, SD—Joe Foss Field, VOR Rwy 15, Amdt. 10.
Sioux Falls, SD—Joe Foss Field, VORTAC Rwy 33, Amdt. 1.
Carthage, TX—Panola County Arpt., VOR/DME-A, Amdt. 1.
El Paso, TX—El Paso Int'l Arpt., VOR Rwy 26, Amdt. 26.
Houston, TX—Lakeside Arpt., VOR-A, Amdt. 1.
Laredo, TX—Laredo Arpt., VOR Rwy 33, Amdt. 12.
Laredo, TX—Laredo Arpt., VOR/DME Rwy 15, Amdt. 10.
Longview, TX—Gregg County Arpt., VORTAC Rwy 31, Amdt. 7.
Longview, TX—Gregg County Arpt., VORTAC Rwy 35, Amdt. 4.
San Antonio, TX—San Antonio Int'l Arpt., VOR-A, Original.
Burlington, WI—Burlington Muni. Arpt., VOR Rwy 29, Amdt. 1.
Green Bay, WI—Austin-Straubel Field, VOR Rwy 12, Amdt. 14.
Green Bay, WI—Austin-Straubell Field, VORTAC Rwy 36, Amdt. 6.

Janesville, WI—Rock County Arpt., VOR Rwy 4, Amdt. 20.

* * * effective September 30, 1976.

Winona, MN—Winona Muni. Arpt., Max Conrad Field, VOR Rwy 29, Amdt. 7.
Winona, MN—Winona Muni. Arpt., Max Conrad Field, VOR-A, Amdt. 6.

* * * effective September 23, 1976.

Ontario, CA—Ontario Int'l Arpt., VOR Rwy 25(TAC), Amdt. 3.

* * * effective September 9, 1976.

Canton, IL—Ingersoll Arpt., VOR-A, Original.
Canton, IL—Ingersoll Arpt., VOR/DME-A, Amdt. 1, cancelled.
Evansville, IN—Evansville Dress Regional Arpt., VOR-B, Amdt. 1.
Des Moines, IA—Des Moines Muni. Arpt., VOR-A, Amdt. 16, cancelled.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective October 7, 1976.

Lawrence, MA—Lawrence Muni. Arpt., LOC Rwy 5, Amdt. 1.
Ponca City, OK—Ponca City Muni. Arpt., SDF/DME(BC) Rwy 35, Original.
Huron, SD—Huron Regional Arpt., LOC/DME(BC) Rwy 30, Amdt. 3.
Sioux Falls, SD—Joe Foss Field, LOC(BC) Rwy 21, Amdt. 15.
El Paso, TX—El Paso Int'l Arpt., LOC(BC) Rwy 4, Amdt. 1.
Longview, TX—Gregg County Arpt., LOC/DME(BC) Rwy 31, Amdt. 5.
San Angelo, TX—Mathis Field, LOC(BC) Rwy 21, Amdt. 8.
Green Bay, WI—Austin-Straubel Field, LOC (BC) Rwy 24L, Amdt. 11.

* * * effective September 9, 1976.

Little Rock, AR—Adams Field, LOC(BC) Rwy 22, Amdt. 8, cancelled.

* * * effective September 2, 1976.

Chicago, IL—Chicago O'Hare Int'l Arpt., LOC (BC) Rwy 22L, Orig., cancelled.

3. Section 97.27 is amended by originating, amending, or cancelling the following NDB/ADF SIAPs, effective October 7, 1976.

Americus, GA—Souther Field, NDB Rwy 22, Amdt. 4.
DeRidder, LA—Beauregard Parish Arpt., NDB Rwy 18, Amdt. 1.
Plymouth, MA—Plymouth Muni. Arpt., NDB Rwy 6, Amdt. 1.
Taunton, MA—Taunton Muni. Arpt., NDB Rwy 30, Amdt. 2.
Coatesville, PA—Chester County Arpt., G.O. Carlson, NDB Rwy 11, Amdt. 3.
Quakertown, PA—Quakertown Arpt., NDB Rwy 29, Amdt. 6.
North Myrtle Beach, SC—Myrtle Beach Arpt., NDB Rwy 23, Amdt. 4.
Alpine, TX—Alpine Muni. Arpt., NDB Rwy 19, Amdt. 1.
Laredo, TX—Laredo Int'l Arpt., NDB Rwy 17R, Amdt. 1.
San Antonio, TX—San Antonio Int'l Arpt., NDB Rwy 3R, Amdt. 31.
San Antonio, TX—San Antonio Int'l Arpt., NDB Rwy 12R, Amdt. 16.
San Antonio, TX—San Antonio Int'l Arpt., NDB Rwy 21L, Amdt. 1.
San Antonio, TX—San Antonio Int'l Arpt., NDB Rwy 30L, Amdt. 6.
Clintonville, WI—Clintonville Muni. Arpt., NDB Rwy 32, Amdt. 2.
Green Bay, WI—Austin-Straubel Field, NDB Rwy 6R, Amdt. 12.
Sturgeon Bay, WI—Door County Cherryland, NDB Rwy 1, Amdt. 2.

* * * effective September 9, 1976.

Little Rock, AR—Adams Field, NDB Rwy 22, Original.
Canton, IL—Ingersoll Arpt., NDB Rwy 36, Original.
Evansville, IN—Evansville Dress Regional Arpt., NDB Rwy 22, Amdt. 8.
Des Moines, IA—Des Moines Muni. Arpt., NDB Rwy 30R, Amdt. 13.

* * * effective August 16, 1976.

El Paso, TX—El Paso Int'l Arpt., NDB Rwy 22, Amdt. 25.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective October 7, 1976.

Washington, DC—Dulles Int'l Arpt., ILS Rwy 1R, Amdt. 15.
Columbus, OH—Port Columbus Int'l Arpt., ILS Rwy 10L, Amdt. 8.
North Myrtle Beach, SC—Myrtle Beach Arpt., ILS Rwy 23, Amdt. 1.
Laredo, TX—Laredo Int'l Arpt., ILS Rwy 17R, Amdt. 1.
San Antonio, TX—San Antonio Int'l Arpt., ILS Rwy 3R, Amdt. 8.
San Antonio, TX—San Antonio Int'l Arpt., ILS Rwy 12R, Amdt. 5.
San Antonio, TX—San Antonio Int'l Arpt., ILS Rwy 30L, Amdt. 2.
Green Bay, WI—Austin-Straubel Field, ILS Rwy 6R, Amdt. 13.

* * * effective September 9, 1976.

Little Rock, AR—Adams Field, ILS Rwy 22, Original.
Evansville, IN—Evansville Dress Regional Arpt., ILS Rwy 22, Amdt. 16.
Des Moines, IA—Des Moines Muni. Arpt., ILS Rwy 12L, Admt. 1.
Des Moines, IA—Des Moines Muni. Arpt., ILS Rwy 30R, Amdt. 14.
Bremerton, WA—Kitsap County Arpt., ILS Rwy 19, Amdt. 4.

* * * effective September 2, 1976.

Chicago, IL—Chicago O'Hare Int'l Arpt., ILS Rwy 22L, Original.
Franklin, PA—Chess-Lamberton Arpt., ILS Rwy 20, Original.

* * * effective August 16, 1976.

El Paso, TX—El Paso Int'l Arpt., ILS Rwy 22, Amdt. 26.

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective October 7, 1976.

Macon, GA—Lewis B. Wilson Arpt., RADAR-1, Amdt. 12.
Sioux Falls, SD—Joe Foss Field, RADAR-1, Amdt. 1.
San Antonio, TX—San Antonio Int'l Arpt., RADAR-1, Amdt. 20.
Green Bay, WI—Austin-Straubel Field, RADAR-1, Amdt. 2.

* * * effective September 16, 1976.

Chicago, IL—Chicago O'Hare Int'l Arpt., RADAR-1, Amdt. 30.

* * * effective September 9, 1976.

Evansville, IN—Evansville Dress Regional Arpt., RADAR-1, Original.
Des Moines, IA—Des Moines Muni. Arpt., RADAR-1, Amdt. 11.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective October 7, 1976.

Santa Barbara, CA—Santa Barbara Muni. Arpt., RNAV-A, Amdt. 3, cancelled.
Brunswick, GA—Malcolm McKinnon Arpt., RNAV Rwy 22, Amdt. 1.
Wildwood, NJ—Cape May County Arpt., RNAV Rwy 19, Amdt. 2.
San Antonio, TX—San Antonio Int'l Arpt., RNAV Rwy 21L, Amdt. 1.

* * * effective September 9, 1976.

Evansville, IN—Evansville Dress Regional Arpt., RNAV Rwy 4, Amdt. 2.
Des Moines, IA—Des Moines Muni. Arpt., RNAV Rwy 12L, Amdt. 1.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on August 19, 1976.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

[FR Doc.76-25101 Filed 8-27-76;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-155, Amdt. 28]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Public Participation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 24, 1976.

The Civil Aeronautics Board hereby amends its rules of practice, 14 CFR Part 302, to add a provision that the rule for intervention will be liberally construed to facilitate public participation.

Under existing practice, the criteria for determining the propriety of formal intervention in hearing cases, as set forth in Rule 15(b), have been liberally construed with respect to public-interest groups. However, in order to remove any doubt as to whether the Board intends for its intervention rule to be so applied, we have determined to amend the rule so as to provide explicitly that it is to be interpreted liberally to facilitate participation by any members of the public.

Because this amendment merely clarifies existing practice and is interpretative in nature, it is found for good cause that notice and public procedure thereon are unnecessary, and an immediate effective date is in the public interest.

In light of the foregoing, in 14 CFR Part 302, Rules of Practice in Economic Proceedings, the following sentence is added at the end of § 302.15(b), effective August 24, 1976:

§ 302.15 [Amended]

* * * * *

(b) * * *

These criteria will be liberally interpreted to facilitate the effective partici-

pation by members of the public Board proceedings.

(Secs. 204 and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 788, 49 U.S.C. 1324, 1481)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-25344 Filed 8-27-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2241]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

The purpose of this notice is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) will be suspended because of noncompliance with the program regulations. (24 CFR Part 1909 et seq.)

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement. Accordingly, the communities are suspended on the effective date in the list below:

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 List of Eligible Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Massachusetts	Barnstable	Falmouth, town of	July 23, 1971, emergency; May 18, 1973, regular; Sept. 20, 1976, suspended.	May 18, 1973	255211A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.)

Issued: August 24, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76-25249 Filed 8-27-76;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-29; Reference No. 296]

PART 201—DISTILLED SPIRITS PLANTS

Corporate Officers and Directors

On May 6, 1976, there was published in the FEDERAL REGISTER (41 FR 18676) a notice of proposed rulemaking setting forth proposed amendments to 27 CFR 201.148 and 201.163b. The purpose of the proposals was to relax the provisions relating to submission of supporting information in connection with applications for registration of distilled spirits plants. Specifically, it was proposed to replace the requirement for submission of certified extracts or digests of corporate minutes, showing election of officers and directors, with a simplified requirement for the submission of a certified list of officers and directors. Interested parties were given the opportunity to submit, not later than June 7, 1976, data, views, and recommendations regarding the proposed amendments.

No unfavorable comments have been received, and the proposed amendments are hereby adopted without change and are set forth below.

Effective date: August 30, 1976.

The regulations are to be issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: August 12, 1976.

REX D. DAVIS,
Director.

Approved: August 19, 1976.

JAMES J. FEATHERSTONE,
Acting Assistant Secretary of the Treasury.

(1) The regulations in 27 CFR 201.148 are amended to replace the requirement for submission of certified extracts or digests of corporate minutes, showing election of officers and directors, with a requirement for the submission of a certified list of officers and directors, showing their names and addresses. Subsection (a)(4) is amended, subsections (a)(6) and (a)(8) are deleted, and the other subsections are re-numbered accordingly. As amended, the pertinent parts of § 201.148 read as follows:

§ 201.148 Organizational documents.

• • • • •

(a) *Corporate documents.*

• • • • •

(4) Certified list of directors and officers, showing their names and addresses.

(5) Certified true copy of bylaws.

(6) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(7) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

• • • • •

(2) Section 201.163b is amended to add a requirement that any application for amended registration on form 2607, filed because of a change in the officers, must be accompanied by a new certified list of such officers. Also, the term, "assistant regional director" is replaced by the term "regional director". As amended, § 201.163b reads as follows:

§ 201.163b Changes in officers.

Where there is any change in the list of officers furnished under the provisions of § 201.148(a)(4), the proprietor shall submit, within 10 days of any such change, an application on Form 2607 for

amended registration, supported by a new certified list of officers and a statement of the changes reflected in such list: *Provided*, That, where the operations of a distilled spirits plant are conducted pursuant to an operating permit, but not a basic permit, the regional director may extend to 30 days the time within which applications for amended registration to cover such changes in officers shall be filed. Where the proprietor has shown to the satisfaction of the regional director that certain corporate officers listed on the original application have no responsibilities in connection with the operations covered by the registration, the regional director may waive the requirements for submitting applications for amended registration to cover changes in such corporate officers.

[FR Doc.76-25355 Filed 8-27-76;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Pension, Compensation, and Dependency and Indemnity Compensation; Effective Date of Awards

On page 27391 of the FEDERAL REGISTER of July 2, 1976, there was published a notice of proposed regulatory development to amend §§ 3.401 and 3.403 relating to effective dates of awards of benefits.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

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

(72 Stat. 1114; 38 U.S.C. 210.)

Effective date. These VA Regulations are effective August 24, 1976.

Approved: August 24, 1976.

By direction of the Administrator.

A. J. SCHULTZ,
Associate Deputy Administrator.

§ 3.401 Veterans.

Awards of pension or compensation payable to or for a veteran will be effective as follows:

* * * * * * *

(d) *Institutional awards (§ 3.852).* * * *

(2) *Director of a Veterans Administration hospital or domiciliary.* From day following date of last payment to veteran where veteran previously received payments. On initial or resumed payments from date of entitlement to benefits subject to any amounts payable to or withheld for apportionments for dependents.

* * * * * * *

(g) *Tuberculosis, special compensation for arrested.* As of the date the graduated evaluation of the disability or compensation for that degree of disablement combined with other service-connected disabilities would provide compensation payable at a rate less than $67. See § 3.350(g).

(h) *Temporary increase—"General Policy in Rating," 1945 Schedule for Rating Disabilities—(1) Section 4.29 of this chapter.* Date of entrance into hospital, after 21 days of continuous hospitalization for treatment.

(2) *Section 4.30 of this chapter.* Date of entrance into hospital, after discharge from hospitalization (regular or release to non-bed care).

2. In § 3.403, paragraph (b) is revised to read as follows:

§ 3.403 Children.

Awards of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or widow (widower) on behalf of such child, will be effective as follows:

* * * * * * *

(b) *Majority (§ 3.854).* Direct payment to child if competent, from date of majority or, date of last payment, whichever is the earlier date.

* * * * * * *

[FR Doc.76-25323 Filed 8-27-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-1—GENERAL

Procurement; Miscellaneous Amendments

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

§ 4-1.453 [Amended]

1. Section 4-1.453 is amended by deleting paragraph (c) (3).

Effective date: August 30, 1976.

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

Done at Washington, D.C., this 20th day of August 1976.

GEORGE C. KNAPP,
Acting Director,
Office of Operations.

[FR Doc.76-25296 Filed 8-27-76;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 69-29; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Windshield Mounting

This notice amends Motor Vehicle Safety Standard No. 212, 49 CFR 571.212, Windshield Mounting, to extend its applicability to multipurpose passenger vehicles, trucks, and buses having a gross vehicle weight rating (GVWR) of 10,000 pounds or less, except for forward control vehicles and open-body type vehicles with folding or removable windshields, and to coordinate its test procedures with those of Standard No. 208, 49 CFR 571.208, Occupant Crash Protection.

An advance notice of proposed rulemaking was published September 16, 1969 (34 FR 14438), followed by notices of proposed rulemaking published on August 23, 1972 (37 FR 16979) and January 18, 1974 (39 FR 2274). This notice is based on the latter notice of proposed rulemaking, and responds to the comments submitted thereto.

The final rule retains the proposed rule's extension to multipurpose passenger vehicles, trucks, and buses having a gross vehicle weight rating (GVWR) of 10,000 pounds or less. However, forward control vehicles and open-body vehicles with fold-down windshields are excluded from the application of the standard because of the impracticability of complying with the requirements.

Many manufacturers objected to the requirement in the proposal that the dummies used in the test vehicle not be restrained by active restraint systems. Upon impact in a crash test, unrestrained dummies tend to fly about the passenger compartment, damaging the dummies.

In 1972 the NHTSA proposed the amendment of Standard No. 212 (37 FR 16979) to specify a 75 percent retention requirement using restrained dummies. The purpose of the proposal was to eliminate optional retention requirements and to permit dynamic testing consistent wih other safety standards. In 1974 another approach was taken with the NHTSA proposing (39 FR 2274) a 50 percent retention requirement using unrestrained dummies, in anticipation of the passive restraint requirements that were to be included in Standard No. 208. Having the benefit of a large number of comments on both proposals, the NHTSA has determined that both are suitable, the 1972 approach for vehicles equipped with active restraints, where dummy damage would be great if the dummy were unrestrained, and the 1974 approach for vehicles equipped with passive restraints, since the dummy would not contact the windshield.

The frontal barrier crash test conditions specified in the final rule are substantially similar to those of Standard

No. 208, Occupant Crash Protection, Standard No. 219, Windshield Zone Intrusion, and Standard No. 301, Fuel System Integrity. This will allow compliance testing for these standards in one crash test under certain circumstances. In this way, much of the expense associated with crash testing can be reduced.

Most of the manufacturers who commented on the proposal objected to the requirement that the vehicle be tested at a temperature range of 15° F to 110° F. Some manufacturers objected that the higher temperatures would damage sensitive instrumentation. Others argued that the range should be coordinated with that of Standard No. 301 (49 CFR 571.301) or with ISO regulations. Some asserted that they would have to build expensive test facilities in order to conduct tests at the temperature extremes. The NHTSA has determined that testing over the specified range is necessary, in light of the fact that windshield moldings have significantly different retention capabilities at different temperatures. The NHTSA recognizes that certain additional expenses may be entailed in testing over the specified temperature range. However, the safety need to ensure adequate windshield retention justifies the additional expense.

Effective date: September 1, 1977.

(Sec. 103, 119, Pub. L. 89563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on: August 23, 1976.

JOHN W. SNOW,
Administrator.

In consideration of the foregoing, Standard No. 212, 49 CFR 571.212, is revised to read as set forth below.

§ 571.212 Standard No. 212; Windshield mounting.

S1. *Scope.* This standard establishes windshield retention requirements for motor vehicles during crashes.

S2. *Purpose.* The purpose of this standard is to reduce crash injuries and fatalities by providing for retention of the vehicle windshield during a crash, thereby utilizing fully the penetration-resistance and injury-avoidance properties of the windshield glazing material and preventing the ejection of occupants from the vehicle.

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks, and buses having a gross vehicle weight rating of 10,000 pounds or less. However, this standard does not apply to open-body type vehicles with a folding or removable windshield, or to forward control vehicles.

S4. *Definition.* "Passive restraint system" means a system meeting the occupant crash protection requirements of S5 of Standard No. 208 by means that require no action by vehicle occupants.

S5. *Requirements.* When the vehicle traveling longitudinally forward at any speed up to and including 30 mph impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, under the conditions of S6, the windshield mounting of the vehicle shall retain not less than the minimum portion of the windshield periphery specified in S5.1 and S5.2.

S5.1 *Vehicles equipped with passive restraints.* Vehicles equipped with passive restraint systems shall retain not less than 50 percent of the portion of the windshield periphery on each side of the vehicle longitudinal centerline.

S5.2 *Vehicles not equipped with passive restraints.* Vehicles not equipped with passive restraint systems shall retain not less than 75 percent of the windshield periphery.

S6. *Test conditions.* The requirements of S5 shall be met under the following conditions:

S6.1 The vehicle, including test devices and instrumentation, is loaded as follows:

(a) Except as specified in S6.2, a passenger car is loaded to its unloaded vehicle weight plus its cargo and luggage capacity weight, secured in the luggage area, plus a 50th-percentile test dummy as specified in Part 572 of this chapter at each front outboard designated seating position and at any other position whose protection system is required to be tested by a dummy under the provisions of Standard No. 208. Each dummy is restrained only by means that are installed for protection at its seating position.

(b) Except as specified in S6.2, a multipurpose passenger vehicle, truck, or bus is loaded to its unloaded vehicle weight, plus 300 pounds or its rated cargo and luggage capacity, whichever is less, secured to the vehicle, plus a 50th-percentile test dummy as specified in Part 572 of this chapter at each front outboard designated seating position and at any other position whose protection system is required to be tested by a dummy under the provisions of Standard No. 208. Each dummy is restrained only by means that are installed for protection at its seating position. The load is distributed so that the weight on each axle as measured at the tire-ground interface is in proportion to its GAWR. If the weight on any axle when the vehicle is loaded to its unloaded vehicle weight plus dummy weight exceeds the axle's proportional share of the test weight, the remaining weight is placed so that the weight on that axle remains the same. For the purposes of this section, unloaded vehicle weight does not include the weight of work-performing accessories.

S6.2 The fuel tank is filled to any level from 90 to 95 percent of capacity.

S6.3 The parking brake is disengaged and the transmission is in neutral.

S6.4 Tires are inflated to the vehicle manufacturer's specifications.

S6.5 The ambient temperature is any level between 15° F. and 110° F.

[FR Doc.76-25151 Filed 8-27-76;8:45 am]

[Docket No. 74-14; Notice 06]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection

This notice amends Standard No. 208, Occupant Crash Protection, to continue until August 31, 1977, the present three options available for occupant crash protection in passenger cars.

This extension of the present occupant crash protection options of Standard No. 208 (49 CFR 571.208) was proposed July 19, 1976 (41 FR 29715), along with several other subjects that will be the subject of a future notice. Vehicle manufacturers supported the proposal but requested that the options be extended indefinitely instead of being limited to a 1-year extension. Mr. Benjamin Redmond advocated the use of an interlock system to increase usage of active belt systems. Ms. Lucie Kirylak expressed a preference for active occupant crash protection systems. The National Motor Vehicle Safety Advisory Council did not take a position on the proposal.

The Secretary of Transportation has initiated a process for the establishment of future occupant crash protection requirements under Standard No. 208 (41 FR 24070, June 14, 1976). The Secretary's proposal addresses the long term issues involved, and this 1-year extension of requirements is intended to provide the time necessary to reach that decision. Because a 1-year extension is consistent with the process that has been established and because a longer extension was not proposed for comment, the NHTSA declines to extend the existing requirements as recommended by the manufacturers.

Other matters proposed in the notice that underlies this action will be treated at a later date, following the receipt of comments that are due on October 20, 1976.

The NHTSA notes that no effective date was proposed for the other matters addressed by the proposal. Those matters involve modification of the existing passive protection options so that they conform to the proposal of the Department of Transportation, and to reduce somewhat the femur force requirement. Also, further specification of dummy positioning in the vehicle was addressed. The agency proposes an immediate effective date for these changes, because they represent relaxation of the requirements. However, the views of interested persons, particularly Volkswagen (which is certifying compliance under one passive option), are solicited by October 20, 1976.

In consideration of the foregoing, the heading and text of S4.1.2 of Standard No. 208 (49 CFR 571.208) are amended

by changing the date "August 31, 1976" to "August 31, 1977" wherever it appears.

Effective date: August 26, 1976.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on August 26, 1976.

JOHN W. SNOW,
Administrator.

[FR Doc.76-25428 Filed 8-26-76;1:15 pm]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Opening of Ouray National Wildlife Refuge, Utah to Hunting of Migratory Game Birds

On July 7, 1976, there was published in the FEDERAL REGISTER 41 FR 27844 a notice of proposed ruelmaking adding Ouray National Wildlife Refuge, Utah to the list of refuge areas which are open for the hunting of migratory game birds. This list is published at 50 CFR 32.11. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation.

Pursuant to the authority of 16 U.S.C. 668dd(d), as redelegated to the Director of the United States Fish and Wildlife Service at DM 242.1.1, the Director has determined that the opening of Ouray National Wildlife Refuge to public hunting would not be contrary to the provisions of law applicable to the area, would be compatible with the principles of sound wildlife management, would be in the public interest and would not be detrimental to the objectives for which the area was established.

The public was provided a 30-day comment period and was advised that an environmental assessment had been prepared on the proposal and was available for public inspection.

Two comments were received on the proposed rulemaking. Both supported the proposal.

Based on the preceding and an evaluation of the environmental assessment, it has been determined that the hunting of migratory game birds on the Ouray National Wildlife Refuge, Utah is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)). The preparation of an environmental impact statement on the proposed actions is, therefore, not required.

Accordingly, the proposed rulemaking is hereby adopted without change and § 32.11 is amended as set forth below:

§ 32.11 List of open areas; migratory game birds.

UTAH

OURAY NATIONAL WILDLIFE REFUGE

Effective date: August 30, 1976.

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

AUGUST 25, 1976.

[FR Doc.76-25324 Filed 8-27-76;8:45 am]

PART 32—HUNTING

Sand Lake National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on August 30, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Sand Lake National Wildlife Refuge, South Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,000 acres, is delineated on a map available at the Refuge Headquarters and from the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501. Hunting shall be in accordance with all applicable state regulations covering the hunting of deer, subject to the following conditions:

(1) Archery season—November 1 to November 19, 1976 and December 13 to December 31, 1976, all dates inclusive.

(2) Firearms season—Muzzle Loaders; November 20 to November 26, 1976 and rifle; November 27 to November 30, 1976, December 1 to December 5, 1976 and December 6 to December 12, 1976, all dates inclusive.

(3) All hunters must exhibit their hunting license, deer tag and vehicle contents to Federal and State officers upon request.

(4) Hunters will not be allowed to drive on refuge maintained trails but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1976.

WILLIAM C. BAIR,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76-25351 Filed 8-27-76;8:45 am]

PART 32—HUNTING

Sand Lake National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on August 30, 1976.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of waterfowl on the Sand Lake National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. These open areas, totalling 275 acres, are designated on a map available from the refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501.

Hunting shall be in accordance with all applicable State regulations concerning the hunting of waterfowl subject to the following conditions:

(1) The open season for hunting snow geese on the refuge is from October 2, 1976 through December 26, 1976 inclusive. The open season for hunting Canada and white front geese on the refuge is from October 2, 1976 through November 28, 1976, inclusive. The open season for hunting ducks and coots on the refuge is from October 2, 1976 through November 30, 1976, inclusive.

(2) Hunting will be from established blind sites only, without cost, with each site restricted to not exceed two hunters, and on a first-come, first-served basis. Blind sites and their use are more specifically described on a map and a list of regulations available at Refuge Headquarters and each of the hunting sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 26, 1976.

WILLIAM C. BAIR,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76-25352 Filed 8-27-76;8:45 am]

PART 32—HUNTING

Sand Lake National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on August 30, 1976.

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of pheasants on the Sand Lake National Wildlife Refuge, South Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,000 acres, is delineated on a map available at the Refuge Headquarters and from the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501. Hunting shall be in accordance with all applicable state regulations covering the hunting of pheasants subject to the following conditions:

(1) The open season for hunting pheasants on the refuge is from December 13, 1976, through December 31, 1976, both dates inclusive.

(2) Hunters will not be allowed to drive on refuge maintained trails, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1976.

WILLIAM C. BAIR,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76-25353 Filed 8-27-76;8:45 am]

PART 33—SPORT FISHING

The following special regulation is issued and is effective on August 30, 1976.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Sand Lake National Wildlife Refuge, South Dakota is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 150 acres, are delineated on a map available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1977, inclusive.

(2) The use of boats is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

WILLIAM C. BAIR,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 19, 1976.

[FR Doc.76-25354 Filed 8-27-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Cape Fur Seal Management; Waiver of the Moratorium

On February 19, 1976, the Director, National Marine Fisheries Service (hereinafter the "Director") published: (1) A decision to waive the moratorium imposed by the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 et seq., to allow the importation of up to 19,180 skins of Cape fur seals harvested from each annual harvest commencing with the 1975 harvest within the Republic of South Africa, and (2) regulations to govern the waiver (41 FR 7510-7512 and 7537-7540).

The waiver provides for a monitoring mechanism, an annual review of the South African management program and a number of activities conducted thereunder.

On July 23, 1976, the Director published notice in the FEDERAL REGISTER (41 FR 30337) that he had received information from the Government of the Republic of South Africa pertaining to the annual review and invited the public to review and to comment on it. A copy of this information was forwarded to the Marine Mammal Commission for its review and comment.

The notice also indicated that the Director had received a petition from the Fouke Company, Greenville, South Carolina, which requested that the waiver of the moratorium be amended to allow an annual harvest level of 76,965 Cape fur seals rather than the 70,000 animal level currently provided in the waiver. Because an assessment of the Fouke Company's petition and materials submitted in support thereof required a review of scientific information which, in substantial part, would be the subject of the annual review, the Director indicated that consideration of the petition would occur in conjunction with the annual review. The public was invited to review and comment on the petition and supporting materials which included the Marine Mammal Commission's comments on the petition. Public comments received by August 11 on both the materials submitted for the annual review and the petition would be considered.

Public comments were received from the following: Lawyers' Committee for Civil Rights under Law on behalf of various Congressmen and others; Center for Law and Social Policy on behalf of Monitor, Inc.; the Society for Animal Rights, Inc.; and, the Committee for Humane Legislation, Inc. For various reasons all groups commenting on the Fouke Company's petition to amend the waiver recommended that either it be denied or, if there was a decision to proceed, any proposed amendments be the subject of a formal rule-making procedure. The Marine Mammal Commission opposed the Fouke Company's petition to amend the waiver retroactively so as to allow importation of skins from seals harvested in 1975.

None of the public comments directly addressed the information provided pertaining to the annual review. A number of groups reasserted their objection, raised at the public hearings held in September 1975 in connection with the initial waiver proposal, that no skins of Cape fur seals should be imported.

Having considered the petition of the Fouke Company and materials submitted in connection therewith, the information submitted by the Government of the Republic of South Africa pertaining to the Director's annual review, the comments received from the public, the comments received from the Marine Mammal Commission, and the record pertaining to the decision to waive the moratorium, the Director has (a) denied the petition and, therefore, will not propose rulemaking to implement the amendments requested by the Fouke Company in its petition; and (b) determined that conditions which gave rise to the Director's decision to waive the moratorium on the importation of skins of Cape fur seals continue to exist and, therefore, there is no reason to consider amending or revoking the waiver.

The decision on the petition is based primarily on the following:

Evidence of the increased Cape fur seal pup population (from 211,300 pups to 219,000 pups) submitted by the Fouke Company cannot be considered sufficient to support a conclusion that the pup population has increased. The evidence indicates an increase in pup population of 4 percent. However, because of the sampling methods used to determine the pup count, experience indicates that there may be as much as a 10 percent variance in the pup count from year to year. Taking this into consideration, one must, on the basis of a scientific approach, conclude that the pup population figures are in essence the same.

In summary, the information provided by South Africa for the annual review established that the scope of the South African inspection program pertaining to the humaneness of harvests has been expanded to include all rookeries, that additional tagging and aerial survey programs have been developed and that, in general, additional means to continue to implement a sound scientific management program consistent with the Marine Mammal Protection Act of 1972, as amended, have been provided.

The level of harvest in 1975 was 74,945 Cape fur seals. This exceeded the level of 70,000 animals established by the waiver. Consequently, no one can qualify for an application to import skins from Cape fur seals harvested in 1975.

The excess harvest (4,945 animals) is not considered adversely significant from a scientific point of view so as to constitute evidence of inadequate management practices. There is no evidence that the seal populations will be adversely affected by this one incident of an excess harvest; nor can the excess harvest be viewed as evidence of a disregard for appropriate harvest levels in view of the fact that the Director's decision on the harvest level was made after the harvest was complete.

The Director's decision is available for review at the Office of the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, D.C.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

AUGUST 25, 1976.

[FR Doc.76-25299 Filed 8-27-76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-241]

PART 6—AIR COMMERCE REGULATIONS

Alternative Procedure for Filing Shipper's Export Declaration

Section 6.8(a) of the Customs Regulations (19 CFR 6.8(a)) presently provides for the filing with Customs of certain specified documents including individual shipper's export declarations on Department of Commerce Form 7525-V at the time of departure of an aircraft from any area from which clearance is required. Regulations of the Bureau of the Census and of the Office of Export Administration now provide an alternative procedure whereby certain qualified exporters may be exempt from filing individual shipper's export declarations if they have obtained approval to file summary monthly reports instead on a Shipper's Summary Export Declaration (Commerce Form 7525-M). In order to conform the Customs Regulations to the regulations of the Bureau of the Census and the Office of Export Administration, it is necessary to amend § 6.8(a) of the Customs Regulations to provide for this alternative procedure.

Accordingly, § 6.8(a) of the Customs Regulations (19 CFR 6.8(a)) is amended as follows:

§ 6.8 Documents for clearance, or for certain departures.

(a) At the time of departure of any aircraft from any area from which clearance is required by § 6.3 or § 6.5, the aircraft commander or an authorized person shall deliver to the Customs officer in charge an outward general declaration, a cargo manifest and any required shipper's export declarations for all cargo on the aircraft (also for the aircraft itself if it is being exported from the United States for foreign account). If required, any shipper's export declarations and cargo manifest may be filed pro forma if the aircraft is departing from the United States and prior to departure a proper bond is given, in which case completed shipper's export declarations and the completed cargo manifest are to be delivered pursuant to the bond not later than the fourth day after departure: *Provided,* That, during any period covered by a proclamation of the President that a state of war exists between foreign nations, no aircraft shall be cleared for a foreign destination until the completed cargo manifest and all required shipper's export declarations shall have been filed with the Customs officer in charge: *And provided further,* That no aircraft shall be cleared until the completed cargo manifest and all required shipper's export declarations have been filed with the Customs officer in charge if the aircraft is departing on a flight from the United States directly or indirectly to a country or other destination in country groups designated W, Y, or Z of the Export Regulations (15 CFR Part 370, Supplement No. 1). At the time of departure of an aircraft not required to clear which is transporting merchandise from one to another area or from an area to possessions of the United States, the documents prescribed in the regulations of the Bureau of the Census (15 CFR Part 30) must be filed before departure or a bond to produce the required documents timely and pro forma documents, when required by the district director, as prescribed in 15 CFR 30.24 must be filed. Clearance of the aircraft on such a flight is not required unless foreign residue cargo is being carried (see § 6.9), or unless the aircraft is of foreign registry and is not departing under the procedure provided for in § 6.2 (d) or unless the aircraft is to proceed to a foreign destination thereafter.

* * * * *

(R.S. 251, as amended, secs. 624, 644, 46 Stat. 759, 761, as amended, sec. 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 1644, 49 U.S.C. 1509).)

Inasmuch as this amendment merely conforms the Customs Regulations to pre-existing regulations of the Bureau of the Census and of the Office of the Export Administration, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment will become effective on August 30, 1976.

VERNON D. ACREE,
Commissioner of Customs.

Approved: August 20, 1976.

JAMES J. FEATHERSTONE,
Acting Assistant Secretary of the Treasury.

[FR Doc.76-25335 Filed 8-27-76;8:45 am]

[T.D. 76-240]

PART 153—ANTIDUMPING

Acrylic Sheet From Japan

The Secretary of the Treasury makes public a finding of dumping with respect to acrylic sheet from Japan. Section 153.46, Customs Regulations, amended.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that acrylic sheet from Japan, other than that produced and sold by Mitsubishi Rayon Company, Ltd., is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of April 29, 1976 (41 FR 17948)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States International Trade Commission responsibility for determination of injury or likelihood of injury. The United States International Trade Commission has determined, and on July 26, 1976, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of acrylic sheet from Japan, other than that produced and sold by Mitsubishi Rayon Company, Ltd., that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of August 2, 1976 (41 FR 32294)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to acrylic sheet from Japan, other than that produced and sold by Mitsubishi Rayon Company, Ltd.

Section 153.46 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

§ 153.46 [Amended]

Merchandise	Country	T.D.
Acrylic sheet, other than that produced and sold by Mitsubishi Rayon Company, Ltd	Japan	76-240

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

AUGUST 20, 1976.

[FR Doc.76-25330 Filed 8-27-76;8:45 am]

proposed rules

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 4]

[Notice No. 301]

IMPORTED WINE

Certificates of Origin, Identity, and Analysis

The Director of the Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury, is considering rulemaking with respect to 27 CFR Part 4, Labeling and Advertising of Wine Regulations, to require, as a condition for release of imported wine from customs custody for consumption, a full and accurate certificate of origin, identity, and analysis. At the option of the producer, in lieu of the filing of a certificate as stated above, ATF may be invited to inspect the producers records and operations for compliance.

The Bureau of Alcohol, Tobacco and Firearms has significant responsibilities, imposed by the Federal Alcohol Administration Act, to prevent consumer deception. Recently we have become aware of the need for further protection with respect to the contents of wines bottled abroad. The existing Bureau regulations under the Federal Alcohol Administration Act (27 CFR Part 4, Labeling and Advertising of Wine) do not appear to provide adequate protection to the consumer against mislabeling of imported wine, particularly as to the origin and contents.

In order to assure compliance with its responsibilities for insuring the accuracy of labeled information on domestically produced wine, ATF inspects domestic wine producers' facilities, books and records. However, as to imported wines, 27 CFR 4.45 presently requires a certificate of origin and identity issued by a duly authorized official of the appropriate foreign government regulating the production of such wine for home consumption, only if the issuance of such certificates has been authorized by that government.

The proposed amended certificate of origin, identity, and analysis would place domestic and imported wine on an equal footing. The certificate would apply to foreign producers regardless of whether their governments had authorized such certificates, and would be in lieu of ATF inspection of their facilities, books and records. This information would be required for importations of wine in lots of more than five cases, intended for consumption in the United States. The foreign producer would be relieved of this requirement if he invited ATF to inspect his facilities, books and records. Effective governmental control of wine labeling practices, in the United States or abroad, depends upon on-site inspections, certifying that U.S. statutory requirements concerning packaging, marking, branding, and labeling have been complied with, that the wine contains no substances deemed injurious to the health by the Food and Drug Administration, and that enological practices prohibited in the U.S. were not used in the production of the wine. The latter requirement, however, will be flexible enough to allow, by waiver, for enological practices traditionally used by foreign countries to continue to be used upon a showing that such use presents no health implications.

The proposed certificate of origin, identity and analysis would require that: (1) Wine labeled with a grape type designation was produced from at least 51 percent of the particular variety of grape indicated by such designation, and that the predominant taste, aroma, and other characteristics were derived from such grapes; (2) in the case of nonvintage wine labeled with an appellation or origin, that such wine was produced from grapes at least 75 percent of which were grown in the appellation area; and (3) in the case of vintage wine labeled with a viticultural area, that such wine was produced from grapes at least 95 percent of which were grown in that viticultural area during that vintage year.

Furthermore, the certificate would list all flavors (including nature-identical flavors), colors, and processing aids used in the production of wine, and, where considered necessary to enforce the provisions of the F.A.A. Act, would information as to the analysis of the following constituents: (1) Residual sugar; (2) alcohol content; (3) total solids; (4) total carbon dioxide; (5) volatile acid; (6) total sulfur dioxide; (7) extract; (8) fixed acid.

Persons who wish to participate in the rulemaking process are invited to submit written comments or suggestions on the proposed regulatory change. The written material should be submitted, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (Attn: Chief, Regulations and Procedures Division) by October 29, 1976. The provisions of 27 CFR 71.31(b) shall apply with respect to the designation of portions of comments as exempt from disclosure. Written comments which are not exempt from disclosure, may be inspected by any person upon compliance with 27 CFR 71.22. Any interested person submitting comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his/her request, in writing, to the Director by October 29, 1976.

The proposed regulations are to be issued under the authority contained in section 27 U.S.C. 205 (49 Stat. 981, as amended).

In consideration of the foregoing, it is proposed that 27 CFR 4.45, Certificates of origin and identity, be amended to read as follows:

§ 4.45 Certificates of origin, identity and analysis.

(a) *Origin.* Imported wine in lots of more than five cases shall not be released from customs custody unless the invoice is accompanied by a certificate of origin, identity and analysis certified by a duly authorized official (subject to ATF concurrence) of the appropriate foreign governmental agency vested with the authority to perform on-site inspections. The certificate shall state that: (1) The wine has been produced in compliance with the laws and regulations of the appropriate foreign government regulating the production of wine for home consumption, has been packaged, marked, branded and labeled in compliance with the Federal Alcohol Administration Act and regulations promulgated thereunder, and has not been subjected to enological practices which are prohibited by U.S. regulations; (2) the wine contains no substance which the Food and Drug Administration has determined to be injurious to health; (3) wine labeled with a grape type designation was produced from at least 51 percent of the particular variety of grape indicated by such designation, and that the predominant taste, aroma, and other characteristics were derived from such grapes; (4) nonvintage wine labeled with an appellation of origin was produced from grapes at least 75 percent of which were grown in the appellation area; and (5) vintage wine labeled with a viticultural area was produced from grapes at least 95 percent of which were grown in that viticultural area during that vintage year.

(b) *Identity.* The certificate shall also list, by their common and usual names, all flavors, colors, and processing aids used in the production of wine. Synthetic or artificial colors and flavors shall be listed as such, even if nature-identical.

(c) *Analysis.* Where it is considered necessary for the enforcement of provisions of the F.A.A. Act, a certificate of analysis containing the following information may be required: (1) Residual sugar expressed as mg./100 ml; (2) Alcohol content expressed as percent by volume, (7 percent minimum and 24

percent maximum); (3) Total solids—expressed as grams per 100 cubic centimeters, (22 gr./100cc. maximum); (4) Total carbon dioxide—expressed as grams carbon dioxide per 100 milliliters, (.393 gr. C02/100 ml. maximum for still wine); (5) Volatile acid—expressed as grams of volatile acid per 100 cubic centimeters calculated as acetic and exclusive of sulfur dioxide, (0.14 percent maximum for all wines); (6) Total sulfur dioxide—expressed as parts per million, (350 ppm. maximum for all wines); (7) Extract—expressed as grams per 100 milliliters (1.7 gr./100 ml. minimum for white wine and 1.8 gr./100 ml. for red wine); (8) Fixed acid—expressed as grams per 100 milliliters. (Total acid less volatile acid and calculated as tartaric, eight parts per thousand maximum calculated as tartaric if the wine acid has been corrected and five parts per thousand minimum if the wine has been ameliorated).

(d) *Exception.* (1) Imported wine in lots of more than five cases may be released from Customs custody without the certificate required by this section if accompanied by a statement signed by a person who has authority to authorize ATF officers the right of entry to the premises of the producing or bottling winery, as the case may be, and the right to examine the records thereof for the purpose of ensuring that such wine meets the origin and identity requirements of this section; (2) In lieu of an individual statement accompanying or being filed to cover each lot of wine, a continuing statement if authorization may be filed with ATF; (3) Upon petition of the appropriate foreign government, a waiver may be given by ATF to allow the use of enological practices prohibited in this country: *Provided*, That such practices are traditionally used in that country and present no health implications.

Signed: August 13, 1976.

REX D. DAVIS,
Director.

Approved: August 23, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-25358 Filed 8-27-76;8:45 am]

[27 CFR Parts 170, 173, 194, 201, 250, 251, and 252]

[Notice No. 302]

IMPLEMENTATION OF METRIC STANDARDS OF FILL FOR DISTILLED SPIRITS

Proposed Rulemaking

The Bureau of Alcohol, Tobacco and Firearms proposes to revise Parts 170, 173, 194, 201, 250, 251, and 252 to implement the recent adoption of metric standards of fill for distilled spirits.

BACKGROUND

On March 10, 1976, ATF published Treasury Decision ATF-25 in the FEDERAL REGISTER (41 FR 10217). That Treasury decision established metric standards of fill for distilled spirits which will eventually replace the current standards expressed in U.S. measure. Under the provisions of T.D. ATF-25, a bottler may optionally use the six new metric sizes during a transition period beginning on October 1, 1976. After December 31, 1979, which is the date the transition period ends, the metric standards of fill become mandatory, and bottlers will be prohibited from filling distilled spirits bottles according to non-metric standards.

Current ATF regulations require bottlers, liquor dealers, importers, and exporters to record and report transactions involving bottled distilled spirits in proof gallons, wine gallons, or the number of bottles or cases. With the adoption of metric standards of fill, a number of conforming changes are necessary to ATF regulations relating to recordkeeping requirements.

In addition to recordkeeping revisions, ATF regulations need to be amended in the following areas: (1) Case markings—to prescribe new marking requirements on cases of metric size bottles; (2) strip stamps—to require that standard size strip stamps be affixed on metric size bottles of 200 ml capacity or more; (3) liquor bottles—to replace the ½ pint size with the 200 ml standard as the maximum or minimum volume in the applicable sections of regulations; (4) conversion factor—to prescribe the method for converting liters to wine gallons; and (5) other areas—to show the metric equivalent of quantities stated in U.S. measurement, to update obsolete terminology, to add a definition of "liter", and to correct or revise references and statutory citations.

PROPOSALS

ATF proposes to implement the adoption of metric standards of fill for distilled spirits by amending its regulations as follows:

1. *Recordkeeping.* The recordkeeping changes proposed in this notice will, generally speaking, continue to call for amounts in proof gallons where current regulations now call for these amounts and, again generally speaking, will give proprietors the option of recording either wine gallon or liter amounts where current regulations now call for wine gallons.

Since current tax determination and payment procedures are based on proof gallon units, many of the present ATF required records, forms, reports and returns covering bottled goods prescribe reporting in proof gallons. Proposed regulations call for no changes in this area, and any metric units will have to be converted to wine gallons and then to proof gallons for the purpose of preparing such records, reports, etc.

Regulations which currently prescribe quantities to be recorded in wine gallons are being revised to allow proprietors to show these amounts in either wine gallons or in liters, to accommodate metrication. This flexibility is carried over to commercial records which may be maintained by proprietors in either unit of measure. It is our intent to permit enough flexibility in the proposed revisions to allow a proprietor to maintain his records in whichever unit (gallons or liters or a combination thereof) best suits his individual records system. It must be remembered, however, that these commercial record systems must be designed to facilitate conversion to proof gallons if and when required. A bottler, for example, would be given the option of maintaining his commercial records relating to his controlled stock inventory either in proof gallons or a combination of proof gallons and liters and proof. Since this is one of the most critical matters in these proposed revisions we particularly invite comments on and suggestions for improvement in this area. Please bear in mind, however, that any final regulation which ATF adopts must be versatile enough to apply to the entire industry—it cannot be tailored to suit the needs of an individual or a few proprietors.

[§§ *170.60, 170.61, 194.221, 201.618, 201.625, 201.626, and 252.250 are amended.*]

2. *Conversion factor.* As the transition to metric standards of fill takes place, it will become necessary for proprietors to convert from metric to U.S. measurements. Where a proprietor chooses to record metric sizes in U.S. measure, the liter quantities will have to be converted to wine gallons. Whenever quantities of distilled spirits in metric size bottles are required (by law, forms or regulations) to be shown in wine gallons or proof gallons, the quantity in liters will again have to be converted to wine gallons. For these reasons, and to achieve uniformity and accuracy in all conversions, ATF is proposing to add conversion factor sections in Parts 170, 194 and 201. These new sections will require that the quantity in liters be multiplied by 0.264172 to determine the equivalent volume in wine gallons whenever a conversion is required by regulations or optionally chosen by the proprietor. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

[§§ *170.64, 194.232 and 201.611a added.*]

3. *Strip stamps.* Red, green and blue strip stamps are currently printed in two sizes: the standard size strip stamp and the small, "less than ½-pint" size strip stamp. Since metric standards of fill will soon be in effect, ATF is removing the "less than ½-pint" designation from small strip stamps. After September 30, 1976, bottlers will be required to affix the new small strip stamp to the 50 ml size bottle and to all sizes less than ½-pint which are stated in U.S. measure. ATF proposes to revise the affected regulatory sections by eliminating references to "less than ½-pint" strip stamps and by requiring that small size strip stamps be affixed to sizes of less than 200 ml capacity.

[§§ *201.542, 250.137, 250.143, 250.146, 250.232, and 251.63 amended.*]

4. *Strip stamp records and reports.* ATF proposes to amend its regulations

by requiring that the usage of strip stamps on metric size bottles be recorded separately from U.S. sizes. The proposed regulations specifically will require that all stamps used on bottles filled in accordance with the metric standards of fill prescribed by § 5.47a(a), must be recorded separately for each bottle size. Similarly, stamps used on bottles filled in accordance with the existing U.S. standards of fill prescribed by § 5.47(a), must continue to be recorded separately for each bottle size. The regulations will, however, continue to allow U.S. sizes of less than ½ point capacity to be recorded as one item.

[§§ *201.624, 250.270, and 251.130 amended.*]

ATF does not intend to revise those sections which prescribe regulations for strip stamp reports. The revised reporting format, which will require separate reporting of all metric sizes, will be accomplished by revising the quarterly strip stamp reports and by adding appropriate instructions to those forms. Proprietors, however, are advised that although these revised strip stamp reports will not have to be submitted until January, 1977, their strip stamp records covering the quarter beginning on October 1, 1976, will have to be kept in a manner which will enable them to prepare the new report forms. To adequately prepare the new strip stamp reports, a proprietor, who commences bottling distilled spirits according to metric standards on October 1, 1976, will have to record separately by size the usage of strip stamps on each metric size bottle. In effect, two separate reports of usage will be required; one covering the usage of stamps on bottles filled to the current U.S. standards and the other covering the usage of stamps on bottles filled in accordance with the metric standards of fill prescribed by § 5.47a(a).

5. *Case markings.* (a) The proposed regulations will require that cases of distilled spirits, containing bottles filled according to metric standards of fill, will show liters and proof in place of proof gallons. ATF is proposing this change to take advantage of one of the aspects of the metric system, i.e., working with whole numbers. For example, a case of liter bottles will show "12 liters—80 proof", and not "2.536 proof gallons" (12 liters x 0.264172 x .8 approximately equal 2.536 proof gallons). To eliminate having to show proof gallon amounts carried to three or more decimal places, cases of spirits bottled in metric measure will show "liters and proof" in place of proof gallons.

[§§*201.527, 201.528, 250.40, 250.205, and 250.206 amended.*]

(b) Based upon ATF's experience with wine metrication, the proposed regulations will allow (but not require) bottlers to show on the government side of a case a statement indicating what U.S. size is replaced by a metric size.

[§§ *201.527 and 201.528 amended.*]

6. *Other proposals.* (a) *Definition of liter.*—A definition of liter is proposed to be added to Parts 194, 201 and 252. (A definition of liter will be added to Parts 250 and 251 in a separate document relating to wine metrication.)

[§§ *194.11, 201.11 and 252.11 amended.*]

(b) *Equivalent volumes in metric measures.*—The proposed regulations show the metric equivalent of U.S. measurements where appropriate. For example, the phrase "20 wine gallons" appears in several sections in Part 194. ATF proposes to add, in parentheses, the metric equivalent of 20 wine gallons—75.7 liters. The quantities "1 gallon" and "10 gallons" also appear in Parts covered by this notice. The metric equivalents of those two amounts, 3.785 liters and 37.85 liters, will similarly be added to the appropriate regulatory sections. ATF is proposing these parenthetical references to metric equivalents to assist persons bottling or handling metric bottles.

[§§ *194.28, 194.188, 194.236, 194.239, 194.251, 201.502, 201.503, 250.38, 250.99, 250.135, 250.185, 250.203, 250.203a, 250.312, 251.58, 251.120, 251.202, and 252.201 amended.*]

(c) *Applicability of liquor bottle regulations.*—Current liquor bottle regulations, in Parts 173, 201, 250, and 251, use the ½-pint standard in determining the applicability of certain requirements of those Parts. As an illustration, the liquor bottle regulations in Part 173 apply only to bottles of "½-pint capacity or more" unless a particular provision of Part 173 is expressly applied to bottles of "less than ½-pint capacity". Since the 200 ml standard is intended to replace the ½-pint standard, ATF is proposing that the phrases "200 ml capacity or more" and "less than 20 ml capacity" be substituted for the phrases "½-pint capacity or more" and "less than ½-pint capacity" in sections where those latter terms appear.

[§§ *173.31, 173.41, 173.42, 173.43, 201.540a, 201.540b, 201.540f, 201.540i, 201.542, 250.137, 250.232, 250.311, 250.312, 250.316, 251.63, 251.201, 251.202, and 251.206 amended.*]

(d) *The 4 ounce, intrastate size.*—Section 201.540b allows proprietors to bottle distilled spirits in a 4 ounce size for intrastate sale only. One of the most important results from adopting metric standards of fill is the reduction in the number of bottle sizes. Because of cost considerations, reduction in the number of bottle sizes was supported by industry members when the metric standards were under consideration. Consumers will also benefit by the reduced number of bottle sizes available. These benefits include having the cost savings realized by the industry, passed on to the consumer in the form of lower prices (or at least a negation of price increases), and also, fewer standards of fill, with larger net contents spread between the sizes, should lessen the chances of consumer deception. For these reasons, AFT is proposing to eliminate the exception to standards of fill currently allowed in the case of 4 ounce bottles for intrastate sale only. ATF proposes to eliminate this exception so that 4 ounce bottles may only be used through December 31, 1979.

[§ *201.540b amended*]

(e) *Wine metrication changes in Part 201.*—Several sections in Part 201 are proposed to be amended to implement the adoption of wine metric standards of fill. Although a separate document is being prepared by ATF to implement most of the changes made necessary by the new metric wine sizes, ATF has decided to make the revisions for wine in Part 201 along with the changes proposed in this notice. ATF feels this is appropriate since several of the same sections in Part 201 are affected by both the wine and distilled spirits metric standards of fill. The proposed changes would require packages and cases of wine in metric sizes to show liters in place of wine gallons. The proposals would also allow the required wine records to be shown either in wine gallons or in liters.

[§§ *201.526, 201.527, 201.528, and 201.618 amended.*]

(f) *Proprietor's equipment.*—ATF is proposing to amend § 201.246 to reflect the adoption of metric standards of fill. New equipment may be needed in order to determine metric volumes.

[§ *201.246 amended.*]

(g) *Lables on spirits bottled for export.*—Current regulations require bottlers to provide the assigned officer with a statement of the equivalent U.S. units when net contents and proof are in the units of measurement of the foreign country to which the spirits are being exported. ATF proposes to amend this requirement by having this statement show the equivalent units as would be required on bottles for domestic consumption. Thus, the equivalent units for net contents could be ounces, liters or milliliters (or any other U.S. unit currently permitted on bottles for domestic consumption).

[§§ *201.331 and 201.467 amended.*]

(h) *Incorrect references and obsolete terms.*—ATF proposes to correct two references to "Subpart H of 27 CFR Part 5" in Parts 250 and 251 and to update terminology in Part 252.

[§§ *250.312, 251.202, 252.11, and 252.250 amended.*]

(i) *Samples.*—ATF is proposing that the limit on samples of beer, wine and distilled spirits, imported for quality control purposes, be raised from containers of 40 ounces to containers of 1.75 liters (59.2 ounces). ATF has decided upon the 1.75 liter size rather than the smaller size (33.8 ounces) in order to accommodate the "imperial quart", which contains 38.4 ounces.

[§ 251.75 amended]

WRITTEN COMMENTS

ATF invites interested parties to submit written comments, data or arguments on any of the proposals contained in this notice. All written comments should be submitted in duplicate on or before September 29, 1976. Comments should be addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Attn: Chief, Regulations and Procedures Division. Any written comments, arguments or data received in response to this notice will be made available for public inspection unless exempt from disclosure under 27 CFR 71.21(b).

Any interested person submitting comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his/her request, in writing, to the Director by September 29, 1976.

The following proposed regulations are issued under the authority contained in 26 U.S.C. 7805 and would become effective on October 1, 1976.

PROPOSED REGULATIONS

Based upon the foregoing considerations, ATF proposes to amend 27 CFR Chapter I, as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUORS

Paragraph 1. Paragraphs (a) and (b) of § 170.60 are amended to read as follows:

§ 170.60 Record of inventories.

* * * * *

(a) As to containers (including uncased bottles), the kind, size, and serial number where applicable, of each container, and the kind, and quantity either in proof gallons or in liters and degree of proof, of spirits contained therein;

(b) As to cases of bottled spirits, the kind of spirits therein, the number and size of bottles per case, either the proof gallons per case or the liters per case and degree of proof, and the number of such cases; and

* * * * *

§ 170.61 [Amended]

Paragraph 2. Paragraph (b) of § 170.61 is amended by inserting the phrase "or liters" between the words "gallons" and "per".

Paragraph 3. A new Section, § 170.64, is added to read as follows:

§ 170.64 Conversion between metric and U.S. units.

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

PART 173—RETURNS OF SUBSTANCES, ARTICLES OR CONTAINERS

§§ 173.31, 173.41, 173.42, and 173.43 [Amended]

Paragraph 4. Sections 173.31, 173.41, 173.42, and 173.43 are amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears in those sections.

PART 194—LIQUOR DEALERS

Paragraph 5. Section 194.11 is amended by adding, in alphabetical order, a definition of "liter" to read as follows:

§ 194.11 Meaning of terms.

* * * * *

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

* * * * *

Paragraph 6. Sections 194.28 and 194.188 are amended (a) by inserting the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" wherever the latter term appears and (b) by revising the statutory citations at the end of each section. As amended, §§ 194.28 and 194.188 read as follows:

§ 194.28 Sales of 20 wine gallons (75.7 liters) or more.

Any person who sells or offers for sale distilled spirits, wines, or beer, in quantities of 20 wine gallons (75.7 liters) or more, to the same person at the same time, shall be presumed and held to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, unless such person shows by satisfactory evidence that such sale, or offer for sale, was made to a person other than a dealer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1413 (26 U.S.C. 5691).)

§ 194.188 Persons making casual sales.

* * * * *

(a) Administrators, executors, receivers, and other fiduciaries who receive distilled spirits, wines, or beer in their fiduciary capacities and sell such liquors in one parcel, or at a public auction in parcels of not less than 20 wine gallons (75.7 liters);

(b) Creditors who receive distilled spirits, wines, or beer as security for, or in payment of, debts and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters);

(c) Public officers or court officials who levy on distilled spirits, wines, or beer under order or process of any court or magistrate and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters); or

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340 (26 U.S.C. 5113).)

Paragraph 7. Section 194.221 is amended (a) by inserting the phrase "or liters" between the words "wine gallons" and "if" and (b) by revising the statutory citation at the end of the section. As amended, § 194.221 reads as follows:

§ 194.221 General requirements as to distilled spirits.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall, daily, prepare records of the physical receipt and disposition, as prescribed in §§ 194.225 and 194.226, respectively, of distilled spirits by him, and shall, daily, prepare a recapitulation record, as prescribed in § 194.230, showing the total wine gallons or liters if in bottles, or proof gallons if in packages, of distilled spirits received and disposed of during the day.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

Paragraph 8. A new section, § 194.232, is added to read as follows:

§ 194.232 Conversion between metric and U.S. units.

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

Paragraph 9. Section 194.236 is amended (a) by inserting the phrase "(37.85 liters)" at the end of the first sentence and (b) by revising the statutory citation at the end of the section. As amended, § 194.236 reads as follows:

§ 194.236 Entry of miscellaneous items.

Wholesale dealers in liquors may report on Form 52B as one item the total quantity of different kinds of distilled spirits made up from broken cases disposed of to the same person on the same day, provided such total quantity is not in excess of 10 gallons (37.85 liters). The entry of such items shall be stated as "Miscellaneous" or "Misc." and shall show the date, the name and address of the person to whom sold, and the quantity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342 (26 U.S.C. 5114).)

Paragraph 10. Section 194.239 is amended (a) by inserting in paragraph (b) the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" wherever the latter term appears and (b) by revising the statutory citation at the end of the section. As amended, § 194.239 reads as follows:

§ 194.239 Requirements for retail dealers.

* * * * *

(b) *Records of sales of 20 wine gallons (75.7 liters) or more.* Every retail dealer who makes sales of distilled spirits, of wines, or of beer in quantities of 20 wine gallons (75.7 liters) or more to the same person at the same time shall prepare and keep a record of each such sale, which shall show (1) the date of sale, (2) the name and address of the purchaser, (3) the kind and quantity of each kind of liquors sold, and (4) the serial numbers of all full cases of distilled spirits included in the sale. Each entry on such record shall be supported by a corresponding delivery receipt (which may be executed on a copy of the sales slip) signed by the purchaser or his agent.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1345, 1348, 1395, 1413 (26 U.S.C. 5124, 5146, 5555, 5691).)

Paragraph 11. Section 194.251 is amended (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "or" and (b) by revising the statutory citation at the end of the section. As amended, § 194.251 reads as follows:

§ 194.251 Strip stamps required on all bottles.

Except as provided in §§ 194.264, 194.271, and 194.272, all distilled spirits in the possession of wholesale or retail dealers in liquors shall be in bottles or similar containers of a capacity of 1 gallon (3.785 liters) or less which shall bear the prescribed strip stamps evidencing bottling in compliance with internal revenue law. The strip stamps shall be affixed in such manner as to be broken when the containers are opened.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

PART 201—DISTILLED SPIRITS PLANTS

Paragraph 12. Section 201.11 is amended by adding, in alphabetical order, a definition of "liter" to read as follows:

§ 201.11 Meaning of terms.

* * * * *

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter of milliliters may be abbrevated as "ml".

* * * * *

Paragraph 13. Section 201.246 is amended (a) by revising the last sentence and (b) by revising the statutory citation at the end of the section. As amended, § 201.246 reads as follows:

§ 201.246 Measuring devices and proofing instruments.

* * * The proprietor shall provide, for his own use, accurate hydrometers, thermometers, and other necessary equipment for determining proof or volume in either the U.S. or metric units of measure as may be required.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5204).)

Paragraph 14. Sections 201.331 and 201.467 are amended (a) by revising the third sentence in the final paragraph of both sections and (b) by revising the statutory citations at the end of those sections. As amended, §§ 201.331 and 201.467 read as follows:

§ 201.331 Labeling of spirits bottled for export.

* * * * *

(e) The plant number where bottled, unless the markings on the bottle indicate such number. The bottler may place on the label any additional information, including his name or trade name, that he may desire if it is not inconsistent with the reguired information. The label information may be stated in the language of the country to which the spirits are to be exported provided the assigned officer is furnished an English translation of the information. The net contents and proof may be stated in the units of measurement of the foreign country provided the assigned officer is furnished a statement of the equivalent units as they would be required to be expressed if bottled for domestic consumption. The Director may waive the requirement of showing any of the information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, 1366, 1374 (26 U.S.C. 5206, 5233, 5301).)

§ 201.467 Labels for export spirits.

* * * * *

(d) The name (or, if desired, the trade name) of the bottler. The bottler may place on the label any additional information that he may desire if it is not inconsistent with the required information. The label information may be stated in the language of the country to which the spirits are to be exported provided the assigned officer is furnished an English translation of the information. The net contents and proof may be stated in the units of meaurement of the foreign country provided the assigned officer is furnished a statement of the equivalent units as they would be required to be expressed if bottled for domestic consumption. The Director may waive the requirement of showing any of the information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, 1374 (26 U.S.C. 5201, 5301).)

Paragraph 15. Sections 201.502 and 201.503 are amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears in both sections and (b) by revising the statutory citations at the end of those sections. As amended, §§ 201.502 and 201.503 read as follows:

§ 201.502 Containers of 1 gallon (3.785 liters) or less.

The provisions of Subpart K of this part govern the containers to be used in bottling spirits in bond before determination of tax for export under section 5233, I.R.C., and bottling alcohol on bonded premises under section 5235, I.R.C. The provisions of Subpart Na of this part govern the containers to be used in bottling spirits in bond for export in accordance with the conditions and requirements of section 5233, I.R.C., but after determination of tax. The provisions of Subpart Pa of this part govern the containers to be used in bottling spirits in bond for domestic use under, or in accordance with, section 5233, I.R.C. The provisions of Subpart N of this part govern the bottling of spirits, other than spirits bottled in bond, and wines on bottling premises. Denatured spirits may be filled on bonded premises into metal or glass containers of a capacity of 1 gallon (3.785 liters) or less. Liquor bottles shall not be used for bottling denatured spirits. Spirits in bottles of a capacity of 1 gallon (3.785 liters) or less, except anhydrous spirits and spirits to be withdrawn from bond free of tax, are deemed to be for nonindustrial use.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1315, 1360, 1374 (26 U.S.C. 5002, 5206, 5301).)

§ 201.503 Cases.

Spirits, denatured spirits, or wines which have been filled in containers of 1 gallon (3.785 liters) or less, in accordance with the provisions of § 201.502, shall be placed in cases so constructed as to afford reasonable protection against breakage or theft.* * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360 (26 U.S.C. 5206).)

Paragraph 16. Section 201.526 is amended (a) by revising paragraph (b) of that section and (b) by revising the statutory citation at the end of the section. As amended, § 201.526 reads as follows:

§ 201.526 Packages filled at bottling premises.

* * * * *

(b) *Wine.* Packages of wine filled at bottling premises shall be marked with the following information:

(1) Tare, percent alcohol by volume, and wine gallons or, for containers filled according to metric measure, liters. In the case of rectified wine, proof gallons will be shown;

(2) Serial number;

(3) Kind of wine;

(4) Date of filling;

(5) If a rectified product, number of the approved formula under which rectified and the plant number of the rectifier, if other than the packaging proprietor;

(6) Name (or trade name) of proprietor; and

(7) Plant number.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, 1381 (26 U.S.C. 5206, 5368).)

Paragraph 17. Sections 201.527 and 201.528 are revised to read as follows:

§ 201.527 Marks on cases of bottled-in-bond spirits.

(a) * * *

(4) Liters (if bottled according to the standards of fill prescribed by § 5.47a of this chapter);

(5) Proof gallons (if bottled according to the standards of fill prescribed by § 5.47 of this chapter);

(6) Plant number of bottler;

(7) Proof (if bottled in bond for export);

(8) Date filled.

Cases withdrawn for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter. Cases withdrawn tax-free shall be

marked to show the number of the permit of the tax-free user and the purpose of the withdrawal as provided in § 201.524(c).

(b) *Other marks.* In addition to the required marks, the proprietor may include on the Government side of bottled-in-bond cases other marks as follows:

(1) The real name and/or trade name of the producer of the spirits;

(2) For cases containing bottles filled according to metric measure, the term "Replaces" followed by an appropriate designation of the bottle size replaced (i.e. "Replaces Fifth", "Replaces Quart", etc.);

(3) Other material required by Federal, State, or local law and regulations.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, 1366 (26 U.S.C. 5206, 5233); Sec. 3(a), Pub. L. 91–659, 84 Stat. 1965 (26 U.S.C. 5066).)

§ 201.528 Marks on cases filled on bottling premises.

(a) *Mandatory marks.* The following information shall be plainly marked on the Government side of each case of wine or spirits filled on bottling premises, except cases of spirits bottled in bond under the provisions of Subpart Na of this part:

(1) Serial number;

(2) Kind of wine, or kind of spirits;

(3) Plant number where bottled;

(4) Date filled;

(5) Proof (for spirits);

(6) Percent of alcohol by volume (for wines);

(7) Proof gallons for:

(i) Spirits bottled according to the standards of fill prescribed by § 5.47 of this chapter or exempt from such standards under the provisions of § 5.48(b) of this chapter; and

(ii) Rectified wines bottled according to the standards of fill prescribed by § 4.72 of this chapter;

(8) Wine gallons (for unrectified wine bottled according to the standards of fill prescribed by § 4.72 of this chapter;

(9) Liters for:

(i) Rectified or unrectified wines bottled according to the metric standards of fill prescribed by § 4.73 of this chapter; and

(ii) Spirits bottled according to the metric standards of fill prescribed by § 5.47a of this chapter. Cases removed for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter.

(b) * * *

(5) For cases containing bottles filled according to metric measure, the term "Replaces" followed by an appropriate designation of the bottle size replaced (i.e., "Replaces Fifth", "Replaces Quart", etc.);

(6) Other material required by Federal or State law and regulations.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, 1381 (26 U.S.C. 5206, 5363); Sec. 3(a), Pub. L. 91–659, 84 Stat. 1965 (26 U.S.C. 5066).)

§ 201.540a [Amended]

Paragraph 18. Section 201.540a is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 19. Section 201.540b is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" in the first sentence and (b) by inserting the phrase "through December 31, 1979," between the words "used" and "for" in the second sentence. As amended, § 201.540b reads as follows:

§ 201.540b Bottles authorized.

Liquor bottles shall conform to the applicable standards of fill provided in Subpart E of 27 CFR Part 5, including those for liquor bottles of less than 200 ml capacity. The use of any bottle size other than as authorized in Subpart E of 27 CFR Part 5 is prohibited for the packaging of distilled spirits for domestic purposes, except that 4-ounce liquor bottles may be used through December 31, 1979, for packaging any distilled spirits, other than spirits bottled in bond after determination of tax, on bottling premises for sale in intrastate commerce only. Bottles bearing the indicia required under Part 173 of this chapter may be used, but need not be used, in bottling spirits for export.

§§ 201.540f and 201.540i [Amended]

Paragraph 20. Sections 201.540f and 201.540i are amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears in those sections.

Paragraph 21. Section 201.542 is amended (a) by substituting the phrase "200 ml" for the phrase "one-half pint" wherever the latter term appears and (b) by revising the statutory citation at the end of the section. As amended, § 201.542 reads as follows:

§ 201.542 Strip stamp format.

All prescribed strip stamps, with the exception of the white alcohol stamp, shall be issued in (a) a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in (b) a small size for bottles or containers of less than 200 ml capacity. The white alcohol stamp shall be issued in a standard size only, serially numbered.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5205).)

Paragraph 22. A new section, § 201.611a, is added to read as follows:

§ 201.611a Conversion between metric and U.S. units.

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

Paragraph 23. Section 201.618 is amended (a) by revising paragraphs (a) and (d) and (b) by revising the statutory citation at the end of the section. As amended, § 201.618 reads as follows:

§ 201.618 Details of daily records.

The daily records required by this part shall conform to the following requirements:

(a) Spirits shall be recorded by kind and by quantity in proof gallons, or tax gallons if required by instructions on transaction forms, except that removals of bottled products from bottling premises shall be either in wine gallons or liters.

* * * * *

(d) Wines shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons. For wines bottled or packaged according to metric measure, the quantity may be recorded either in liters or in wine gallons. Wines received for and used in rectification shall be recorded by quantity in proof gallons.

* * * * *

(Sec. 201, Pub. L. 85–859, 72 Stat. 1361 (26 U.S.C. 5207).)

Paragraph 24. Section 201.624 is amended (a) by revising the last sentence; (b) by adding a new sentence at the end of the section; and (c) by revising the statutory citation at the end of the section. As amended, § 201.624 reads as follows:

§ 201.624 Daily strip stamp record.

* * * The record shall also show, by size of bottle, the number of bottles to which each kind of strip stamps (green, blue, red, and white) were affixed. The record shall be in sufficient detail to enable proprietors to prepare the required quarterly strip stamp report.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, 1361 (26 U.S.C. 5205, 5207).)

Paragraph 25. Section 201.625 is amended (a) by revising paragraph (a) (3) and (b) by revising the statutory citation at the end of the section. As amended, § 201.625 reads as follows:

§ 201.625 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

* * * * *

(a) * * *

(3) The actual quantity of distilled spirits involved (proof gallons if in packages, wine gallons or liters if in bottles).

* * * * *

(Sec. 201, Pub. L. 85–859, 72 Stat. 1343, 1361 (26 U.S.C. 5114, 5207).)

Paragraph 26. Section 201.626 is amended (a) by inserting the phrase "or liters" immediately after the phrase "wine gallons" and (b) by revising the statutory citation at the end of the section. As amended, § 201.626 reads as follows:

§ 201.626 Sample record for bonded premises.

Proprietors shall maintain daily records of samples taken by them from bonded premises to show (a) the date taken, (b) the kind of spirits (formula number in the case of denatured spirits), (c) the quantity in wine gallons or liters, (d) the container from which taken, (e) the place from which taken, (f) the purpose for which taken, (g) the name and address of the consignee when samples are sent out, and (h) whether such samples are tax-free or tax-determined and if tax-determined, the proof and tax gallons.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361 (26 U.S.C. 5207))

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Paragraph 27. Section 250.38 is amended (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "shall" and (b) by revising the statutory citation at the end of the section. As amended, § 250.38 reads as follows:

§ 250.38 Containers of distilled spirits.

Containers of distilled spirits brought into the United States from Puerto Rico, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of Subpart P of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374 (26 U.S.C. 5301))

Paragraph 28. Section 250.40 is amended by adding a sentence at the end of the section to read as follows:

§ 250.40 Marking containers of distilled spirits.

* * * Cases containing bottles filled according to the standards of fill prescribed by § 5.47a of this chapter shall, in lieu of the wine gallon and proof gallon contents, be marked with the liter contents of the case and the proof of the spirits therein.

§ 250.99 [Amended]

Paragraph 29. Paragraph (c) of § 250.99 is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" in the last sentence of that paragraph.

Paragraph 30. Section 250.135 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" whever the latter term appears and; (b) by revising the second sentence and (c) by revising the statutory citation at the end of the section. As amended, § 250.135 reads as follows:

§ 250.135 Containers of distilled spirits to bear red strip stamps.

Immediate containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or deferred in Puerto Rico under the provisions of this part, shall have red strip stamps affixed thereto in accordance with the provisions of this subpart, prior to shipment to the United States. Except as provided in § 250.185, containers having a capacity of 1 gallon (3.785 liters) or less, containing distilled spirits which have not been taxpaid in Puerto Rico, may not have a red strip stamp affixed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 31. Section 250.137 is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.137 reads as follows:

§ 250.137 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 32. Section 250.143 is amended (a) by deleting the phrase "(less than one-half pint)" from the second sentence of paragraph (b) and (b) by revising the statutory citation at the end of the section. As amended, § 250.143 reads as follows:

§ 250.143 Procurement and custody of red strip stamps.

* * * * *

(b) *Alternative method.* When the Chief, Puerto Rican Operations, determines that the interest of the government will be best served thereby, the stamps may be shipped directly to the insular revenue agent at the plant from the Bureau of Engraving and Printing. In such case, orders for standard size red strip stamps shall be in multiples of 100,000 stamps, and orders for small size shall be in multiples of 50 stamps (one sheet). * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 33. Section 250.146 is amended (a) by revising the second and third sentences and (b) by revising the statutory citation at the end of the section. As amended, § 250.146 reads as follows:

§ 250.146 Record and report of red strip stamps.

Revenue agents having custody of red strip stamps shall maintain for each day a transaction in red strip stamps occurs a daily record of such stamps by size (small or standard), showing the number received, used, lost, mutilated, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show the number and size of bottles to which the stamps were affixed. No form is prescribed for the daily records but such records shall be in sufficient detail and retained to support the quarterly report. * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 34. Section 250.185 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" in the last sentence of the section and (b) by revising the statutory citation. As amended, § 250.185 reads as follows:

§ 250.185 Stamps.

* * * Where taxpaid distilled spirits intended for shipment to the United States are in containers of more than 1 gallon (3.785 liters), distilled spirits stamps shall be procured and affixed, and the containers released, as provided in §§ 250.88 through 250.91.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 35. Section 250.203 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.203 reads as follows:

§ 250.203 Containers of 1 gallon (3.785 liters) or less.

Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of Subpart P of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374 (26 U.S.C. 5301))

§ 250.203a [Amended]

Paragraph 36. Section 250.203a is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears in § 250.203a.

Paragraph 37. Section 250.205 is amended by revising paragraph (c)(1) to read as follows:

§ 250.205 Certificate.

* * * * *

(c) The quantity thereof as follows:

(1) If distilled spirits—

(i) The wine and proof gallons, or

(ii) The liters and degree of proof for cases containing bottles filled according to the standards of fill prescribed by § 5.47a of this chapter.

* * * * *

Paragraph 38. Section 250.206 is amended by adding a sentence at the end of the section to read as follows:

§ 250.206 Marking packages and cases.

* * * Cases containnig bottles filled according to the standards of fill prescribed by § 5.47a of this chapter shall, in lieu of the wine and proof gallon contents, be marked with the liter con-

tents of the cases and the proof of the spirits therein.

Paragraph 39. Section 250.232 is amendde (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.232 reads as follows:

§ 250.232 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 40. Section 250.270 is amended (a) by revising the fourth sentence and (b) by revising the statutory citation at the end of the section. As amended, § 250.270 reads as follows:

§ 250.270 Daily record of strip stamps.

For each day during which a transaction in red strip stamps occurs, the importer shall maintain a daily record accounting for all strip stamps procured by him and by his agents. The record shall show by size (small or standard) the number received, used, lost, mutilated, destroyed or otherwise disposed of, and outstanding at the beginning and end of the day. Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number. The record shall also show the number and size of bottles to which the stamps were affixed and shall be in sufficient detail to enable the importer to prepare the required quarterly strip stamp report. * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

§ 250.311 [Amended]

Paragraph 41. Section 250.311 is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 42. Section 250.312 is revised (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "or" in the first sentence; (b) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears; and (c) by revising the references to Part 5. As amended, § 250.312 reads as follows:

§ 250.312 Standards of fill.

Distilled spirits brought into the United States from Puerto Rico or the Virgin Islands in containers of 1 gallon (3.785 liters) or less for sale shall be in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in §§ 5.47 or 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of Subpart E of Part 5 or § 201.540b of this chapter, may be brought into the United States for packaging distilled spirits as provided in Part 201 of this chapter.

Paragraph 43. The first sentence of § 250.316 is amended (a) by substituting the term "Bureau of Alcohol, Tobacco and Firearms" for the obsolete term "Alcohol, Tobacco and Firearms Division" and (b) by substituting the phrase "200 ml" for the phrase "½-pint". As amended, § 250.316 reads as follows:

§ 250.316 Bottles not constituting approved containers.

The Director, Bureau of Alcohol, Tobacco and Firearms, is authorized to disapprove any bottle, including a bottle of less than 200 ml capacity, for use as a liquor bottle which he determines to be deceptive. * * *

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

§ 251.58 [Amended]

Paragraph 44. Section 251.58 is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" in the heading of the section.

Paragraph 45. Section 251.63 is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 251.63 reads as follows:

§ 251.63 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

§ 251.75 [Amended]

Paragraph 46. Section 251.75 is amended by substituting the phrase "1.75 liters" for the phrase "40 ounces" in the first sentence.

Paragraph 47. Section 251.120 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon"; (b) by substituting the word "through" for the word "to" in the last sentence and (c) by revising the statutory citation at the end of the section. As amended, § 251.120 reads as follows:

§ 251.120 Persons authorized to receive distilled spirits imported in bulk.

Distilled spirits imported in bulk (i.e., in containers having a capacity in excess of 1 gallon (3.785 liters)) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act (49 Stat. 985, as amended; 27 U.S.C. 206) and Regulation 3 (27 CFR Part 3). The importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by §§ 251.133 through 251.134.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1361, 1374, 1395 (26 U.S.C. 5114, 5207, 5301, 5555).)

Paragraph 48. Section 251.130 is amended (a) by revising the fourth sentence and (b) by revising the statutory citation at the end of the section. As amended, § 251.130 reads as follows:

§ 251.130 Daily record of strip stamps.

For each day during which a transaction in red strip stamps occurs, the importer shall maintain a daily record accounting for all strip stamps procured by him and by his agents. The record shall show by size (small or standard) the number received, used, lost, mutilated, destroyed or otherwise disposed of, and outstanding at the beginning and end of the day. Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number. The record shall also show the number and size of bottles to which the stamps were affixed and shall be in sufficient detail to enable the importer to prepare the required quarterly strip stamp report. * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

§ 251.201 [Amended]

Paragraph 49. Section 251.201 is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 50. Section 251.202 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon"; (b) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears; and (c) by revising the references to Part 5. As amended, § 251.202 reads as follows:

§ 251.202 Standards of fill.

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in §§ 5.47 or 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of Subpart E of Part 5 or § 201.540b of this chapter, may be imported for packaging distilled spirits in the United States as provided in Part 201 of this chapter.

Paragraph 51. Section 251.206 is amended (a) by substituting the term "Bureau of Alcohol, Tobacco and Firearms" for the obsolete term "Alcohol, Tobacco and Firearms Division" and (b) by substituting the phrase "200 ml" for the phrase "½-pint". As amended, § 251.206 reads as follows:

§ 251.206 Bottles not constituting approved containers.

The Director, Bureau of Alcohol, Tobacco and Firearms, is authorized to disapprove any bottle, including a bottle of less than 200 ml capacity, for use as a liquor bottle which he determines to be deceptive. * * *

PART 252—EXPORTATION OF LIQUORS

Paragraph 52. Section 252.11 is amended (a) by revising the definitions of "Assistant regional commissioner" and "Director, Alcohol, Tobacco and Firearms Division"; and (b) by adding, in alphabetical order, definitions of "Director", "Liter", and "Regional director". As amended, § 252.11 reads as follows:

§ 252.11 Meaning of terms.

* * * * *

Assistant regional commissioner. A regional director as defined in this section.

* * * * *

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C.

Director, Alcohol, Tobacco and Firearms Division. The Director as defined in this section.

* * * * *

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

* * * * *

Regional director. A regional director who is responsible to, and functions under the direction and supervision of, the Director.

* * * * *

Paragraph 53. Section 252.201 is amended (a) by inserting the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" and (b) by revising the statutory citation. As amended, § 252.201 reads as follows:

§ 252.20 General.

On the exportation, or deposit in a foreign-trade zone for exportation or for storage pending exportation, of distilled spirits in casks or packages filled in internal revenue bond and containing not less tha 20 wine gallons (75.7 liters) each, on which all taxes have been paid or determined, drawback of the internal revenue tax paid or determined may be allowed, subject to compliance with the provisions of this subpart.

(Sec. 3, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1327 (26 U.S.C. 5009).)

Paragraph 54. Section 252.250 is amended (a) by substituting the term "regional director" for the obsolete term "assistant regional commissioner" in the first sentence of the section; (b) by inserting, in paragraph (a)(5), the phrase "or liters" immediately after the word "gallons"; and (c) by revising the statutory citation at the end of the section. As amended, § 252.250 reads as follows:

§ 252.250 Bills of lading required.

A copy of the export bill of lading covering transportation from the port of export to the foreign destination, or a copy of the through bill of lading to the foreign destination, if so shipped, covering the acceptance of the shipment by a carrier for such transportation, shall be obtained and filed by the claimant or exporter with the regional director.* * *

(a) * * *

(5) The total quantity in wine gallons or liters.

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1334, 1335, 1336, as amended, 1362, 1380, (26 U.S.C. 5053, 5055, 5062, 5214, 5362); Sec. 3(a), Pub. L. 91-659, 84 Stat. 1965 (26 U.S.C. 5066).)

Signed: August 5, 1976.

REX D. DAVIS,
Director.

Approved: August 20, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-25356 Filed 8-27-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 251]

TOXIC CHEMICAL HAZARDS OR COMBINED TOXIC AND EXPLOSIVES HAZARDS SAFETY STANDARDS

Proposed Toxic Chemical Safety Standards

There was published in the FEDERAL REGISTER (41 FR 20686, May 20, 1976) FR Doc. 76-14845, proposed toxic chemical safety standards. The purpose of this miscellaneous amendment to the proposed standards is to change the subject of Part 251 from "TOXIC CHEMICAL HAZARDS OR COMBINED TOXIC AND EXPLOSIVES HAZARDS SAFETY STANDARDSS to DoD AMMUNITION AND EXPLOSIVES SAFETY STANDARDS".

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 25, 1976.

[FR Doc.76-25292 Filed 8-27-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Proposed Salable, Reserve, and Export Percentages for 1976-77 Crop Year

Notice is given of a proposal to establish salable, reserve, and export percentages of 96.8 percent, 3.2 percent, and 0 percent, respectively, for marketable California almonds delivered to handlers during the 1976-77 crop year. The proposal is in accordance with the provisions of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 41 FR 26852, 27827) regulating the handling of almonds grown in California. The amended agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was unanimously recommended by the Almond Board of California.

All persons who desire to file written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than September 17, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

This proposal would make 96.8 percent of the 1976 marketable almond production delivered to handlers 255.7 million pounds, available to supply normal domestic and export outlets, and to provide adequate carryover. The Board's marketable production estimate of 264 million pounds, is based upon its 1976 crop estimate of 280 million pounds minus an estimated weight loss of 16 million pounds. This weight loss is expected from the removal of inedible kernels from the crop by handlers and various manufacturing processes.

Trade demand is estimated at 215 million pounds—95 million pounds for domestic needs and 120 million pounds for export needs. A carryover adjustment of 40.7 million pounds is the result of an estimate of 100 million pounds for desirable handler carryover from the 1976 crop minus the 59.3 million pounds handlers carried over from the 1975 crop. Adding the inventory adjustment to the total trade demand estimate equals 255.7 million pounds, the quantity of almonds from the estimated marketable production made available for trade demand needs by the proposal.

The balance of 3.2 percent (8.3 million pounds) of the estimated marketable production delivered to handlers, would be available to develop new outlets noncompetitive with existing normal domestic and export outlets. The development of such new outlets is a long-term necessity for the industry because of anticipated larger crops.

The recent order amendment permits the Board to include export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable and reserve percentages for any crop year. This year, the Board included estimated exports in trade demand thereby making export a salable outlet, rather than a reserve outlet. Because of this action, no reserve almonds will be exported pursuant to § 981.66 and an export percentage of 0 is proposed.

On the basis of the foregoing, salable, reserve, and export percentages of 96.8 percent, 3.2 percent, and 0 percent, respectively, appear to be appropriate for the 1976-77 crop year.

The proposal is as follows:

§ 981.226 Salable, reserve, and export percentages for almonds during the crop year, beginning July 1, 1976.

The salable, reserve, and export percentages during the crop year beginning

July 1, 1976, shall be 96.8 percent, 3.2 percent, and 0 percent, respectively.

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

Dated: August 24, 1976.

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

[FR Doc.76-25297 Filed 8-27-76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 215]

PRIBILOF ISLANDS

Proposed Rulemaking

The Fur Seal Act of 1966, 16 U.S.C. 1151–1187 (the Act), among other things, implements the Interim Convention on Conservation of North Pacific Fur Seals, 8 U.S.T. 2283, T.I.A.S. 3948.

On August 19, 1969, regulations (50 CFR Part 215) were published in the FEDERAL REGISTER (34 FR 13371), implementing certain provisions of the Act. These regulations addressed primarily the administration of the Pribilof Islands.

Section 103 of the Act provides for the taking, transportation, and possession of northern fur seals or their parts for educational, scientific or exhibition purposes. These provisions of the Act have not been implemented by regulations. It is proposed to revise 50 CFR Part 215 to implement them.

The proposed revision of Part 215 provides for three subparts. Subpart A sets forth the purpose of the regulations, several definitions and the penalties for violating the Act and regulations. Subpart B sets forth the procedures for authorizing the possession and transportation of fur seals for purposes of education or exhibition and the means by which fur seals may be acquired for this purpose. Subpart C provides for the administration of the Pribilof Islands.

More specifically, § 215.1 states that the purpose of these regulations is to implement the provisions of the Fur Seal Act of 1966. Section 215.2 defines, among other things, fur seal and public display. Section 215.3 sets forth the various penalties which apply for violations of different provisions of the Act and these regulations. Sections 215.4 thru 215.10 are reserved.

Section 215.11 provides that permits are required for obtaining fur seals and sets forth the fee to be charged for the capture, care and holding of the animal.

Section 215.12 authorizes the Director to issue permits and sets forth the information required in an application for a permit. Provision is made for a review of an application by the Marine Mammal Commission.

Section 215.13 sets forth the procedure for the issuance and modification, suspension or revocation of permits. This section provides for notice of receipt of an application for a permit to be published in the FEDERAL REGISTER and an opportunity for the public to submit comments on the application. It also provides for a hearing in the event the Director decides to issue, modify, suspend or revoke a permit.

Section 215.14 sets forth the requirement that a permit must be in the possession of whoever accompanies a fur seal in transit and affixed to the container carrying the fur seal.

Application and permit issuance requirements closely parallel the requirements for obtaining a permit for a marine mammal pursuant to the Marine Mammal Protection Act of 1972, as amended.

Subpart C, §§ 215.21 through 215.26, is a re-publication of the provisions that currently exist for administration of the Pribilof Islands. Generally, this subsection sets limitations on when there may be visits to fur seal rookeries, prohibits dogs on the islands, limits the importation of birds or other marine mammals, provides for the hunting of reindeer and foxes, and provides for the promulgation of local regulations.

Interested persons may submit written comments or views on this proposed rulemaking on or before September 29, 1976. Comments should be submitted to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

PART 215—PRIBILOF ISLANDS

Subpart A—General

Sec.
215.1 Purpose and scope.
215.2 Definitions.
215.3 Penalties.

Subpart B—Public Display of Fur Seals

215.11 Taking of fur seals for public display.
215.12 Public display permits.
215.13 Procedures for the issuance, modification, suspension or revocation of permits.
215.14 Possession of permits.

Subpart C—Administration of Pribilof Islands

215.21 Visits to fur seal rookeries.
215.22 Dogs prohibited.
215.23 Importation of birds or mammals.
215.24 Reindeer and foxes.
215.25 Walrus and Otter Islands.
215.26 Local regulations.

AUTHORITY: Pub. L. 89-702, 80 Stat. 1091 (16 U.S.C. 1151–1187); Reorganization Plan No. 4 of 1970, 84 Stat. 2090.

Subpart A—General

§ 215.1 Purpose and scope.

The purpose of these regulations is to implement the provisions of the Fur Seal Act of 1966. The provisions of these regulations apply to the administration of the Pribilof Islands, the take of fur seals, and the procedures for issuing, amending or rescinding display permits for fur seals.

§ 215.2 Definitions.

In addition to definitions contained in the Act, and unless the context otherwise requires, in this Part 215:

(a) Act means the Fur Seal Act of 1966, 80 Stat. 1091, 16 U.S.C. 1151–1187, Pub. L. 89-702.

(b) Convention means the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, as amended by the Protocol signed at Washington on October 8, 1963, and as extended by Agreement of September 3, 1969. T.I.A.S. 3948, 5558, 6774; 8 U.S.T. 2283; 15 U.S.T. 316; 20 U.S.T. 2992.

(c) Director means the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) Fur seal means Northern fur seal scientifically known as *Callorhinus ursinus*.

(e) Public display means, with respect to fur seals, the display, whether or not for profit, of fur seals or fur seal parts for the purposes of education or exhibition.

§ 215.3 Penalties.

Any person who violates the provisions of Title I of the Act which relate to the protection of fur seals, or regulations thereunder as set forth in Subpart B of this part, shall be fined not more than $2000 or be imprisoned not more than one year, or both. Any person who violates or fails to comply with the regulations relating to the use and management of the Pribilof Islands or to the conservation and protection of the fur seals or wildlife or other natural resources located thereon, as set forth in Subpart C of this part, shall be fined not more than $500 or be imprisoned not more than six months, or both.

Subpart B—Public Display of Fur Seals

§ 215.11 Taking of fur seals for public display.

(a) Fur seals will be made available for public display only to holders of public display permits issued pursuant to § 215.13. All takings of fur seals will be by personnel of the National Marine Fisheries Service. The fur seals will thereafter be made available to a permit holder at a place and under such conditions as determined by the Director.

(b) A fee of $600 per animal will be charged for the services provided by the National Marine Fisheries Service in capturing, caring for and holding animals taken for public display, which shall include the fee for permit issuance. The fee is based upon a reasonable approximation of the costs involved in labor, supervision, administration, and overhead. The Director may change the amount of the fee at any time he determines that a different fee is reasonable. A change in fee may be accomplished by publication in the FEDERAL REGISTER of the new amount, without the necessity of amending these regulations.

§ 215.12 Public display permits.

(a) The Director may issue permits authorizing the possession and transportation of fur seals for public display. Any person desiring to obtain such a per-

mit may make application to the Director. The sufficiency of the application shall be determined by the Director and, in that connection, he may waive any requirement for information, or require any elaboration or further information deemed necessary. The information requested will be used as the basis for determining whether an application is complete and whether a public display permit should be issued. An original and two copies of the complete application shall be submitted to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235. Assistance in preparing the application may be obtained by writing the above address to the attention of the Marine Mammals and Endangered Species Division, or by calling the Marine Mammals and Endangered Species Division, in Washington, D.C. (a/c 202/634–7529). In preparing an application for a public display permit, provide the following information:

(1) *Title:* Application for Public Display Permit pursuant to the Fur Seal Act of 1966;

(2) List the date of the application;

(3) If the applicant is a partnership or a corporate entity, set forth the details. If the fur seal to be displayed is to be displayed by a party in addition to the applicant, set forth the name of the party and such other information as would be required if such party were an applicant.

(4) Provide a statement on the purpose of the proposed display, including a brief description of:

(i) The need for the fur seal(s);

(ii) How they will be used.

(5) Provide a description of each animal desired, including the age, sex, and size; and a list of the desired dates of delivery.

(6) Describe the manner of transportation of fur seals including:

(i) Mode of transportation;

(ii) Name of transportation company;

(iii) Length of time in transit for the transfer of the animals from the capture site to the display facility;

(iv) Length of time in transit for any future move or transfer of the animals that is planned;

(v) The qualifications of the common carrier or agent used for transportation of the animals;

(vi) A description of the pen, container, cage, cradle, or other devices used to hold the animal before and during transportation; and

(vii) Special care before and during transportation, such as salves, antibiotics and moisture.

(7) Describe the contemplated care and maintenance of any fur seal sought, including a complete description of the the facilities where such anmials will maintained or displayed, including:

(i) The dimensions of the pools or other holding facilities, and the number of animals by species to be held in each;

(ii) The water supply, amount, and quality;

(iii) The diet, amount and type for all animals;

(iv) Sanitation practices used;

(v) Qualifications and experience of the staff; and

(vi) A written certification from a licensed veterinarian knowledgeable in the field of marine mammals that he has personally reviewed the arrangements for transporting and maintaining the animal(s) and that in his opinion they are adequate to provide for the well-being of the animal(s).

(8) Provide a detailed description of the proposed display, including:

(i) A description of the manner, location and number of times per day and per week the animal(s) will be displayed;

(ii) An indication as to whether the display is for profit;

(iii) An estimate of numbers and types of people who it is estimated will benefit by such display;

(iv) A list of any educational or scientific programs connected to the contemplated display; and

(v) A description of the applicant's enterprise and its connections with any governmental, educational, medical, or other scientific entities.

(9) For the year preceding the date of this application, provide the following:

(i) A list of all marine mammals captured, transported or maintained for any purpose by or on behalf of the applicant;

(ii) The numbers of mortalities among such mammals, by species, by date and location of such mortalities;

(iii) The cause(s) of any such mortalities including when available copies of post-mortem reports; and

(iv) The steps which have been taken by the applicant to avoid or reduce such mortalities.

(10) A certification in the following language:

> I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Fur Seal Act of 1966 and regulations promulgated thereunder, and that any false statement may subject me to the criminal panalties of 18 U.S.C. 1001.

(11) The applicant must sign the application.

(b) Upon receipt of an application for a public display permit, the Director shall forward the application to the Marine Mammal Commission together with a request for the recommendations of the Commission and the Committee of Scientific Advisors on Marine Mammals on the permit application. In order to comply with the time limits provided in these regulations, the Director shall request that such recommendation be submitted within 30 days of receipt of the application by the Commission. If the Commission or the Committee, as the case may be, does not respond within 30 days from the receipt of such application by the Commission, the Director shall advise the Commission in writing that failure to respond within 45 days from original receipt of the application (or such longer time as the Director may establish) shall be considered as a recommendation from the Commission and the Committee that the permit be issued. The Director may also consult with any other person, institution or agency concerning the application.

(c) Permits applied for under this section shall be issued, suspended, modified or revoked pursuant to § 215.13. In determining whether to issue a public display permit, the Director shall, among other criteria, consider whether the proposed taking will be consistent with the policies and purposes of the Act: whether a substantial public benefit will be gained from the display contemplated, taking into account the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking and the marine ecosystem on the other; and the applicant's qualifications for the proper care and maintenance of and the adequacy of his facilities.

(d) Permits applied for under this section shall contain terms and conditions as the Director may deem appropriate, including:

(1) The methods of transportation, care and maintenance to be used with live marine mammals;

(2) Any requirements for reports or rights of inspection with respect to any activities carried out pursuant to the permit;

(3) The transferability or assignability of the permit; and

(4) The sale or other disposition of the fur seal and its progeny.

§ 215.13 Procedures for the issuance, modification, suspension or revocation of permits.

(a) Whenever a complete application for a permit is received by the Director, he shall, as soon as practicable, publish a notice thereof in the FEDERAL REGISTER. Such notice shall set forth a summary of the information contained in the application. Any interested party may, within 30 days after the date of publication of the notice, submit to the Director his written data or views with respect to the taking or importation proposed in such application and may request a hearing in connection with the action to be taken thereon.

(b) If a request for a hearing is made within the 30-day period referred to in paragraph (a) of this section, or if the Director determines that a hearing would otherwise be advisable, the Director may, within 60 days after the date of publication of the notice referred to in paragraph (a) of this section, afford to such requesting party or parties an opportunity for a hearing. Such hearing shall also be open to participation by any interested members of the public. Notice of the date, time, and placé of such hearing shall be published in the FEDERAL REGISTER not less than 15 days in advance of such hearing. Any interested person may appear in person or through representatives at the hearing and may submit any relevant material, data, views, comments,

arguments, or exhibits. A summary record of the hearing shall be kept.

(c) As soon as practicable but not later than 30 days after the close of the hearing (or if no hearing is held, as soon as practicable after the end of the 30 days succeeding publication of the notice referred to in paragraph (a) of this section) the Director shall issue or deny issuance of the permit. Notice of the decision of the Director shall be published in the FEDERAL REGISTER within 10 days after the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

(d) Any permit shall be subject to modification, suspension or revocation by the Director in whole or in part in accordance with these regulations and the terms of such permits. The permittee shall be given written notice by registered mail, return receipt requested, of any proposed modification, suspension, or revocation. Such notice shall specify:

(1) The action proposed to be taken and a summary of the reasons therefore;

(2) The steps, if any, which the permittee may take to demonstrate or achieve compliance with all lawful requirements;

(3) Shall advise the permittee that he is entitled to a hearing thereon, if a written request for such a hearing is received by the Director within 10 days after the date of receipt of the aforesaid notice or such other date as may be specified in the notice to the permittee. The time and place for the hearing, if requested by the permittee, shall be determined by the Director and written notice thereof given to the permittee by registered mail, return receipt requested, not less than 15 days prior to the date of the hearing. The Director may, in his discretion, allow participation at the hearing by interested members of the public. The permittee and others participating may submit all relevant material, comments and briefs at the hearing. A summary record shall be kept of the hearing.

(e) The Director shall make a determination regarding the proposed modification, suspension or revocation as soon as practicable after the close of the hearing or if no hearing is held as soon as practicable after the close of the 10-day period during which a hearing could have been requested. Notice of the Director's decision to modify, suspend or revoke shall be published in the FEDERAL REGISTER as soon as practicable.

(f) Any permittee shall have the opportunity to request modification of a permit. An application to modify a permit shall contain, to the extent relevant, the information requested in § 215.13. An application to modify a permit shall be processed in accordance with this section.

§ 215.14 Possession of permits.

(a) Any permit issued under these regulations must be in the possession of the permittee or his authorized representative who accompanies the transit of a fur seal for which the permit was issued.

(b) A duplicate copy of the permit must be physically attached to the container, package, enclosure, or other means of containment in which the fur seal is placed for the purpose of storage, transit, supervision or care.

Subpart C—Administration

§ 215.21 Visits to fur seal rookeries.

From June 1 to October 15 of each year, no person, except those authorized by a representative of the National Marine Fisheries Service, or accompanied by an authorized employee of the National Marine Fisheries Service, shall approach any fur seal rookery or hauling grounds nor pass beyond any posted sign forbidding passage.

§ 215.22 Dogs prohibited.

In order to prevent molestation of fur seal herds, the landing of any dogs at Pribilof Islands is prohibited.

§ 215.23 Importation of birds or mammals.

No mammals or birds, except household cats, canaries and parakeets, shall be imported to the Pribilof Islands without the permission of an authorized representative of the National Marine Fisheries Service.

§ 215.24 Reindeer and foxes.

(a) The reindeer herd on St. Paul Island is Government-owned. When it is determined that a surplus exists, hunting will be allowed to the extent of the surplus.

(b) Foxes may be hunted or trapped when prime during the months of December and January by holders of trapping licenses issued by the State of Alaska.

§ 215.25 Walrus and Otter Islands.

By Executive Order 1044, dated February 27, 1909, Walrus and Otter Islands were set aside as bird reservations. All persons are prohibited to land on these islands except those authorized by the appropriate representative of the National Marine Fisheries Service.

§ 215.26 Local regulations.

Local regulations will be published from time to time and will be brought to the attention of local residents and persons assigned to duty on the Islands by posting in public places and brought to the attention of tourists by personal notice.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

AUGUST 17, 1976.

[FR Doc.76-25304 Filed 8-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 102]

[Docket No. 76N-0336]

SUBSTITUTES FOR MARGARINE (OLEOMARGARINE) OR BUTTER

Common or Usual Name

The Food and Drug Administration (FDA) is proposing to establish a common or usual name for substitutes for margarine (oleomargarine) or butter that contain less fat and/or oil than margarine or butter. For a substitute that is not nutritionally inferior to margarine or butter the name proposed is "_____ spread" with the blank to be filled in with the common or usual name(s) of the fat and/or oil ingredient(s), or a collective (generic) term(s) describing the fat and/or oil ingredients, together with a declaration of the percentage by weight of total fat, e.g., "vegetable oil spread—contains 40 percent fat," "dairy spread—contains 40 percent fat," "vegetable oil and dairy spread—contains 40 percent fat." The proposal is made pursuant to the general principles and procedure in Part 102 (21 CFR Part 102) for establishing common or usual names for nonstandardized foods. Interested persons have until October 29, 1976 to submit comments.

DESCRIPTIVE NAME

In recent years a number of substitutes for margarine or butter have appeared on the market. The substitutes do not conform to the standard of identity for margarine (21 CFR 45.1) or the standard for butter (21 U.S.C. 321a (42 Stat. 1500)) in that the total fat content is less than 80 percent by weight. The substitutes currently on the market have various names: Those with 40 percent fat content may be labeled as "Diet Imitation Margarine," "Diet Spread Imitation Margarine" or "(brand name) Imitation Margarine"; products with 60 percent fat content may be labeled as "60 percent vegetable oil spread" or "(brand name) Spread." These products do not always bear a prominent declaration of fat content as part of the name. A lot of a margarine substitute has been seized on grounds that the food was misbranded because, among other things, the label did not bear a meaningful and descriptive name.

In response to inquiries, advisory letters have stated that a margarine substitute may be labeled with a descriptive common or usual name such as "vegetable oil spread—40 percent fat," and that a butter substitute may be labeled with a name such as "dairy spread—40 percent butterfat." Copies of these advisory letters are on file and may be seen in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. However, to remove the uncertainty that may exist in industry as to the correct common or usual name for substitutes for margarine or butter, the Commissioner on his own initiative proposes to establish one common or usual name for both these products.

Representatives from several manufacturers of margarine substitutes met with personnel from FDA and suggested a common or usual name for margarine substitutes. This suggestion has been considered. Copies of the memorandum of meeting and the common or usual name regulation suggested by the representatives of the manufacturers are on file at the office of the Hearing Clerk, Food and Drug Administration.

IMITATION DESIGNATION

Section 403(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343 (c)), as interpreted by § 1.8(e) (21 CFR 1.8(e)), requires a food to be labeled as an imitation of another food if it substitutes for and resembles the other food and is also nutritionally inferior to the other food; § 1.8(e) excludes a reduction in fat or caloric content as a criterion of nutritional inferiority.

The Commissioner of Food and Drugs notes that an intended effect of § 1.8(e) is to discourage the gradual nutritional deterioration of the American diet through the introduction of products that may replace traditional products but are nutritionally inferior to them. When a nutritionally inferior product is introduced, the requirement that it be labeled as an imitation in accordance with the provisions of § 1.8(e) will alert consumers to the inferiority.

A food which resembles margarine or butter in appearance and taste but which fails to meet the respective standards for margarine and butter is inherently a substitute. These products are usually displayed for sale adjacent to margarine and butter; pictorial representations of these products on packages frequently show uses that are identical to common uses of margarine and butter; and directions for use compare the products to margarine and butter. Therefore, the Commissioner concludes that a substantial likelihood of substitution exists and that any substitute that is nutritionally inferior to margarine or butter must be labeled as an imitation to inform consumers of the inferiority.

The nutrients that are present in significant quantities in a serving of approximately one pat of margarine or butter are vitamin A, and sometimes vitamins D and E.

Margarine is required by its standard of identity to contain 15,000 international units of vitamin A per pound, and butter is a natural source of vitamin A and contains an average of approximately 15,000 international units of vitamin A per pound. Consequently, under the proposal, a substitute that does not contain this amount of vitamin A would be considered to be nutritionally inferior to margarine or butter and would be required to be labeled as an imitation.

The Commissioner advises that the vitamin D content of butter varies according to the diet of the cows supplying the milk and that addition of vitamin D to margarine is optional under the standard of identity. Likewise, certain vegetable oils used as ingredients in margarine may contain high levels of vitamin E, but margarine manufactured from animal fats, and butter manufactured from milk produced in the winter may contain low levels of vitamin E. The Food and Drug Administration does not presently have enough information to be able to set a vitamin E value for nutritional equivalence. Therefore, the Commissioner advises that he will not regard a substitute to be nutritionally inferior to margarine or butter solely on account of its vitamin D or E content.

Fat is a valuable constituent in margarine and butter and in substitutes for these foods, and the fat content may have a material bearing on price and consumer acceptance. Because declaration of the fat and/or oil ingredient(s) by name alone would not enable consumers to distinguish among substitutes with different fat contents, the Commissioner proposes that a statement of the percentage by weight of total fat be included in the common or usual name of a substitute for margarine or butter.

The Commissioner advises that he will regard a spread that contains fats and/or oils other than milk fat and bears the common or usual name provided for in the proposed regulation to be a margarine substitute rather than a butter substitute. Accordingly, in the absence of other labeling that suggests the food is offered as a butter substitute, section 407 of the act (21 U.S.C. 347) would not be applicable to such a spread. Spreads containing milk fat as the sole fat and/or oil ingredient are not subject to section 407 of the act when offered as a butter substitute because the spreads are not within the definition of margarine (oleomargarine) found in 15 U.S.C. 55 and § 45.1 (21 CFR 45.1).

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. The Commissioner has also carefully considered the inflation impact of the proposed regulation as required by Executive Order 11821, OMB Circular A-107, and the Guidelines issued by the Department of Health, Education, and Welfare, and no major inflation impact has been found. Copies of the FDA environmental and inflation impact assessments are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041, as amended, 1047-1048, as amended, 1055 (21 U.S.C. 321(n), 343, 371 (a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

It is proposed that Part 102 be amended by adding new § 102.27 to read as follows:

§ 102.27 Substitutes for margarine or butter.

(a) The common or usual name of a substitute for margaine (oleomargarine) or butter that contains less than 80 percent by weight of total fat and/or oil shall include the term "_____ spread" with the blank to be filled in with a listing (in the order of predominance) of either the specific common or usual name of each fat and/or oil ingredient, or a collective (generic) term(s) that describes the fat and/or oil ingredients, e.g., "vegetable oil spread," "dairy spread."

(b) The common or usual name of a substitute for margarine or butter shall include declaration, in the manner set forth in § 102.1(b), of the percentage by weight of total fat and/or oil, e.g., "vegetable oil spread—contains 40 percent fat."

(c) A substitute for margarine (oleomargaine) or butter that is nutritionally inferior to margarine or butter shall be labeled as an imitation pursuant to § 1.8(e) of this chapter. For purposes of § 1.8(e)(2) of this chapter, a substitute for margarine (oleomargarine) or butter shall not be considered nutritionally inferior due to its vitamin D or E content.

Interested persons may, or or before October 29, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: August 23, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-25286 Filed 8-27-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 76-168]

ATCHAFALAYA RIVER, LA

Proposed Drawbridge Operation Regulations

At the request of the Louisiana and Arkansas Railway Company, the Coast Guard is considering revising the regulations for the railroad drawbridge across the Atchafalaya River, mile 133.1, to require at least six hours notice from 4 p.m. to 8 a.m., Monday through Friday, and on Saturday and Sunday. From 8 a.m. to 4 p.m., Monday through Friday, the draw would open on signal. The draw is presently required to open on signal at all times. This change is being considered because of relatively few nighttime openings (an average of 1.4 per week) and weekend openings (an average of .31 per week) over a six month period.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before October 1, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new § 117.570 immediately after § 117.560 to read as follows:

§ 117.560 Atchafalaya River, La., bridges.

The swing span of the Louisiana and Arkansas railroad bridge, mile 133.1 shall open on signal from 8 a.m. to 4 p.m. Monday through Friday. At all other times the swing span shall open on signal if at least six hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.50-1(c)(4)).

Dated: August 23, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-25348 Filed 8-27-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 76-SW-46]

BELL MODEL 47K HELICOPTERS

Airworthiness Directives

Amendment 428 (27 FR 3844) AD 62-10-1 (published as an amendment to § 507.10(a) of Part 507 of the Regulations of the Administrator (14 CFR Part 507 (1962)) under Regulatory Docket No. 1085) required installation of clevis pins and repetitive inspections of the synchronized elevator on certain Bell Model 47J helicopters, After issuing Amendment 428, AD 62-10-1, the Bell Model 47K helicopters have entered civil service; and these helicopters use a synchronized elevator design similar to the Model 47J. Recently a Model 47K reportedly experienced a fatigue failure of the elevator spar.

Therefore, the agency is considering issuing a new AD for the Bell Model 47K helicopter prescribing requirements similar to those in Amendment 428, AD 62-10-1.

Interested persons are invited to participate in the making of the proposed rule my submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before September 30, 1976, will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments in the Office of Regional Counsel for examination by interested persons.

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

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BELL. Applies to Bell Model 47K helicopters certificated in all categories.

Compliance required as indicated.

A report has been received of fatigue cracking of the tubular spar of the synchronized elevator at the Rollpin hole. To preclude possible separation of the elevator from the helicopter, accomplish the following:

(a) Within 25 hours' time in service after the effective date of this AD:

(1) Remove the elevators from the tail boom in accordance with the Bell Maintenance Manual.

(2) Clean the area around the Rollpin hole and remove any zinc chromate putty from any plugged hole in the tubular spar at B.L. 7.0 for both right and left elevators.

(3) Inspect for cracks in the tubular spar of both elevators at the Rollpin hole at B.L. 7.0 using a 5-power or higher magnifying glass.

(4) Inspect the inboard rib for cracks using a 5-power or higher magnifying glass.

(b) If cracks are found in the tubular spar, modify the elevator with Bell Helicopter Kit No. 47-3746-1 or 47-3746-2, "Improved Design Synchronized Elevator," or FAA engineering approved equivalent prior to further flight.

(c) If no cracks are found in the tubular spar, install clevis pin in accordance with subparagraphs (1) through (4) below or in accordance with item 2 of Bell Helicopter Company Service Bulletin No. 135SB dated July 27, 1961, or later approved revision, and reinspect in accordance with subparagraph (5).

(1) Position coupling assembly P/N 47-267-483-1 on elevators and line drill through Rollpin holes with a "D" (0.2460-inch diameter) drill. Remove sharp edges from holes. Install MS 20392-3-49 clevis pins, AN 960-4162 washers, and AN 381-3-6 cotter pins. A finger tight slip fit of the clevis pins is desired, approximately 0.0005 inch loose.

(2) Reinstall the elevator on the helicopter, shim as required to prevent preload or end play at bearings.

(3) Check clearance between skin and end of clevis pins. Trim skin, if necessary, to obtain clearance.

(4) Rerig elevator is accordance with the Bell Maintenance manual.

(5) Reinspect in accordance with (a)(1) through (a)(3) within each succeeding 50 hours' time in service until Bell Helicopter Kit No. 47-3746-1 or 47-3746-2, "Improved Design Synchronized Elevator," or FAA approved equivalent is installed.

(d) If cracks are found in the inboard rib, repair the elevator as specified below, or modify with Bell Helicopter Kit No. 47-3746-1 or 47-3746-2, or FAA engineering approved equivalent prior to further flight.

(1) Remove the inboard rib by drilling out the rivets and remove the Bell P/N 47-267-404-7 shoulder from the rib by drilling out the rivets.

(2) Add a doubler of 0.032 thickness, or a new rib of 0.032 thickness, material aluminum alloy 2024-0, or a Bell rib P/N 47-267-453-7 (one required per elevator).

(3) Rivet Bell P/N 47-267-404-1 shoulder to the old rib and new doubler or to the new rib. Use the rivet pattern in the shoulder with AN 470-AD3 or -4 rivets.

Install the rib assembly, using the rivet pattern in the elevator skin with MS 20600 AD4 or -5 rivets.

(e) If no cracks are found in the inboard rib:

(1) Reinstall the elevator on the helicopter in accordance with Bell Maintenance Manual.

(2) Reinspect rib for cracks in accordance with (a)(4) within each succeeding 50 hours' time in service until Bell Helicopter Kit No. 47-3746-1 or 47-3746-2, "Improved Design Synchronized Elevator," or FAA engineering approved equivalent is installed.

(f) Upon request of the operator, an FAA maintenance inspector subject to prior approval of the Chief, Engineering and Manufacturing Branch, Southwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

Issued in Fort Worth, Texas, on August 19, 1976.

A. H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.76-25095 Filed 8-27-76;8:45 am]

[14 CFR Part 39]

[Docket No. 76-EA-48]

BOEING VERTOL AIRCRAFT

Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Boeing Vertol type 107-II helicopters.

There have been reports of corrosion which could lead to cracks in the main rotor blade of the subject helicopters. Since this deficiency can exist or develop in helicopters of similar design, the proposed airworthiness directive would require a repetitive inspection and alteration or replacement of the main rotor blade.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Engineering and Manufacturing Branch, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, En-

gineering and Manufacturing Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

BOEING VERTOL: Applies to Boeing Vertol Model 107-II Helicopters Certificated in all Categories.

Compliance required as follows:

To detect corrosion which could lead to cracking of the main rotor blade spars accomplish the following within the next 60 days unless already accomplished within the past 34 months and every 36 months thereafter.

(a) Inspect for corrosion, and alter if necessary, main rotor blades P/N's 107R1202 and SK24790 series in accordance with Boeing Vertol Co. Service Bulletin No. 107-333 (R-1) dated July 1, 1976, Section 2 "Accomplishment Instructions" or equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(b) If spar corrosion exceeds the limits in the service bulletin or those approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, replace the main rotor blade with one that has been inspected and altered if necessary, in accordance with the service bulletin and/or an acceptable equivalent procedure found acceptable.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, New York, on August 11, 1976.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.76-25098 Filed 8-27-76;8:45 am]

[14 CFR Part 39]

[Docket No. 76-WE-17-AD]

LOCKHEED-CALIFORNIA COMPANY L-1011-385 SERIES AIRPLANES

Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Lockheed-California Company L-1011-385 series airplanes which have C-1A cargo door installed. The latch pins on the latch fittings of the C-1A cargo door surround structure on Lockheed-California Company L-1011-385 series airplanes could be incorrectly installed during maintenance replacements and this could result in a possible in-flight loss of the C-1A cargo door.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require installation of latch pin guard assemblies and related components, reidentification of the latch fitting assemblies and check of proximity sensors adjustment on Lockheed-California Company L-1011-385 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is required. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, 92007 Worldway Postal Center, Los Angeles, CA 90009. All communications received on or before September 28, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA CO. Applies to Lockheed Model L-1011-385 series airplanes certificated in all categories having C-1A cargo door installed.

Compliance required within the next 300 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent the latch pins on the latch fittings of the C-1A cargo door surround structure from being incorrectly installed during maintenance replacement, which could result in a possible in-flight loss of the C-1A cargo door, accomplish the following:

a. Install latch pin guard assemblies and related components, reidentify the latch fitting assemblies and check proximity sensors adjustment as necessary, on the C-1A cargo door surround structure, in accordance with Lockheed-California Company Service Bulletin 093-52-083 dated May 25, 1976, or later FAA-approved revision or equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

b. Airplanes may be flown in accordance with FAR 21.197 to a base where the modification can be performed.

Issued in Los Angeles, California on August 20, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-25096 Filed 8-27-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SW-45]

CARLSBAD, N. MEX.

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Carlsbad, N. Mex., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before September 29, 1976 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

1. In § 71.171 (41 FR 355), the Carlsbad, N. Mex., control zone is amended to read:

CARLSBAD, N. MEX.

Within a 5-mile radius of Cavern City Air Terminal (latitude 32°20'14" N., longitude 104°15'46" W.) and within 3.5 miles each side of the Carlsbad VOR 336° and 156° radials extending from the 5-mile-radius zone to 10 miles southeast of the VOR and 2.5 miles each side of the Carlsbad VOR 334° radial extending from the 5-mile-radius zone to 12.5 miles northwest of the VOR.

2. In § 71.181 (41 FR 440), the Carlsbad, N. Mex., transition area is amended to read:

CARLSBAD, N. MEX.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Cavern City Air Terminal (latitude 32°20'14" N., longitude 104°15'46" W.) and within 3.5 miles each side of the Carlsbad VOR 156° radial extending from the 8.5-mile-radius area to 11 miles southeast of the VOR.

These amendments will provide the necessary controlled airspace for the RNAV RWY 14R instrument approach procedure to Cavern City Air Terminal.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth, TX., on August 10, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76-25097 Filed 8-27-76;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 76-06 Notice 1]

SPEEDOMETERS AND ODOMETERS

Motor Vehicle Safety Standard

This notice proposes a new Federal motor vehicle safety standard that would require vehicles to be equipped with speed and distance indicators, establish accuracy requirements for the indicators, limit the speed indicator scale to 85 mph, and require that distance indicators be tamper-resistant.

On February 22, 1974 (39 FR 6765), the NHTSA published a request for comments on the question whether there should be a rule concerning maximum speedometer indication and, if so, the most appropriate maximum indication. The comments were to take into account the current lower speed limits, the corresponding highway fatality reduction, driver convenience, and the expected effectiveness of such a rule. That notice was not a step in rulemaking procedure and stated that no final action would be taken without further notice and opportunity to comment.

Developments since publication of the previous notice have provided further indications that a speedometer scale limitation would be beneficial. Definitive judgments can now be made concerning the effect of the speed limit reduction to 55 mph on high-speed-related fatalities. The 1974 statistics show 9,400 fewer motor-vehicle related fatalities than in 1973. Further, several studies concerning the effects of the nationwide 55 mph speed limit have shown that slower and more uniform speeds, and not reduced travel, are primarily responsible for the 17 percent drop in the fatality rate.

Congress has now made the 55 mph limit permanent, recognizing not only the fatality reduction and fuel conservation benefits, but also the generally favorable public reaction to lower speeds. This proposed standard for reduced maximum speedometer indication has been initiated to help maintain these lower speeds at minimum costs.

Benefits are expected to be achieved by the proposed standard in several ways. First, whatever temptation present speedometers provide immature drivers to test the top speed of their vehicles will be diminished. Second, shifting the indication for 50 or 60 mph from the center of the speedometer dial nearer to the right end should suggest to drivers that these speeds are near the legal limit. Existing speedometers which indicate speeds of 120 mph or more use more than half of the dial to indicate illegal and dangerous speeds.

Finally, limiting the maximum indication to 85 mph will allow speedometer dials to be more precisely graduated and more readable in the range of speeds normally driven. The NHTSA regards 85 mph as an appropriate maximum indication, since a much higher figure would defeat the desired effect of the rule.

The NHTSA has received indications from the four large domestic automobile manufacturers that they intend to voluntarily reduce maximum speedometer indications on most models in the near future. Two of the manufacturers plan reductions to an 85 mph upper reading, and the other two manufacturers plan reductions to 100 mph. The NHTSA appreciates these voluntary efforts, although a 100 mph maximum reading is not considered a sufficient reduction, as noted earlier. In conjunction with the voluntary efforts on the part of these manufacturers, the NHTSA believes this proposal is necessary to initiate meaningful discussion from the industry as a whole on reduction of the upper readings of their speedometer scales. Reasonable leadtime would be given so that the reductions could be accomplished during normal model-year changes.

The proposed standard also requires a tamper-resistant odometer for all vehicles having a gross vehicle weight rating of 16,000 pounds or less. Vehicles with a GVWR of more than 16,000 pounds are excluded from the odometer requirement. These larger vehicles are routinely driven hundreds of thousands of miles, and maintenance records rather than odometer readings are traditionally used as the means of determining condition.

The purpose of the odometer requirements is twofold. First, it is important that purchasers of used vehicles know the actual road mileage of the vehicle they are buying, in order to ascertain the probable condition of the vehicle. If an odometer has been rolled back to show a false road mileage, the purchaser might be lulled into a false sense of security and forego needed maintenance or repairs. Second, it is important that odometers be accurate so that owners can maintain preventive maintenance schedules and assure that their vehicles are in safe working condition.

In summary, this proposed standard requires all motor vehicles, with the exception noted above, to be equipped with speedometers and odometers. The standard specifies accuracy requirements for the indicators, and limits the speedometer indication scale to 85 mph. Finally, odometers are required to be designed so that they cannot be turned in the reverse direction, for the purpose of preventing consumer fraud and the presence of potentially dangerous vehicles on the nation's highways.

The preliminary Economic Impact Analysis of this proposed standard has been placed in the docket and is available for public inspection. The analysis discusses both the expected costs and the expected benefits of the proposed requirements. The analysis indicates that the limitation of speedometer scales to 85 mph would cause a decrease in high-speed driving and result in an estimated 175 fewer fatal accidents and 1,900 fewer injury accidents. The proposed odometer requirements would result in the prevention of a percentage of the accidents attributable to vehicular defects and mechanical problems resulting from neglected vehicle maintenance. The analysis estimates that the odometer requirements would result in the reduction of 660 accidents.

The economic impact of this proposed standard is estimated to be minimal. With sufficient leadtime, the majority of the requirements could be incorporated during normal model-year changes. The requirement that odometers indicate when 100,000 miles or 100,000 kilometers have been exceeded would result in an annual cost of $1.00 per vehicle, if a six-digit odometer is used to satisfy the requirement. However, if sufficient leadtime is given, the cost of this requirement should be negligible.

In consideration of the foregoing, it is proposed that a new motor vehicle safety standard be added to 49 CFR Part 571 as set forth below.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: November 29, 1976.

Proposed effective date: September 1, 1979.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 6, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

MOTOR VEHICLE SAFETY STANDARD NO. —

SPEEDOMETERS AND ODOMETERS

S1. *Scope.* This standard establishes requirements for the installation and accuracy of speedometers and odometers in motor vehicles, limits the speedometer indication scale to 85 mph, and requires that odometers be tamper-resistant.

S2. *Purpose.* The purpose of this standard is to provide each motor vehicle with the instruments needed to maintain safe driving speeds and to maintain proper maintenance schedules, to help ensure that the vehicle is in safe condition.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles, and to speedometers and odometers for use in these vehicles. Motor driven cycles whose speed attainable in one mile is 30 mph or less, and vehicles that are designed and sold exclusively for use by law enforcement agencies, are excluded.

S4. *Definitions.* "Speed attainable in 1 mile" means the speed attainable by accelerating at maximum rate from a standing start for a distance of 1 mile on a level surface.

S5. *Requirements.*

S5.1 *Speedometer.* Each vehicle shall have a speedometer graduated in miles per hour. There may, at the option of the manufacturer, be additional graduation in kilometers per hour.

S5.1.2 The speed indication shall not be more than 4 miles per hour above or below the actual vehicle speed when tested at any speed from 20 mph to a maximum of either (1) 80 mph, or (2) the speed attainable in 1 mile if less than 80 mph, under the test conditions specified in S6.

S5.1.3 The speedometer shall not display values that exceed 85 mph or 137 kph.

S5.2 *Odometers.*

S5.2.1 Each vehicle with a gross vehicle weight rating of 16,000 pounds or less shall have an odometer.

S5.2.2 Each odometer shall be capable of indicating distance traveled (1) from 0 to 99,999 miles in 1-mile units or (2) from 0 to 99,999 kilometers in 1-kilometer units.

S5.2.3 Each odometer shall clearly indicate when (1) the mileage indications have exceeded 100,000 miles or (2) when the kilometer indications have exceeded 100,000 kilometers.

S5.2.4 The odometer shall either indicate when it has been turned in the reverse direction or shall be designed so that it cannot be turned in the reverse direction.

S5.2 The indicated odometer distance shall not be more than 4 percent above or below the actual distance traveled by the vehicle when tested for a distance of 100 miles, at any speed between 20 and 80 mph or the speed attainable in 1 mile, if less than 80 mph, and under the test conditions specified in S6.

S6. *Test Conditions.*

S6.1 The vehicle is at unloaded vehicle weight plus 200 pounds (including driver and instrumentation) for motorcycles or plus 300 pounds (including driver and instrumentation) for other vehicles. The additional weight is distributed in the front seat area.

S6.2 The vehicle is equipped with tires recommended by the manufacturer.

S6.2.1 Tire tread depth is at least 90 percent of the original tread depth.

S6.3 Vehicle adjustments, including tire pressure, are made according to the manufacturer's recommendations.

[FR Doc.76-25109 Filed 8-27-76;8:45 am]

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

[5 CFR Parts 2505, 2510]

FREEDOM OF INFORMATION ACT AND PRIVACY ACT

Proposed Implementation

Pursuant to the Privacy Act, 5 U.S.C. 552a, and the Freedom of Information Act, 5 U.S.C. 552, the National Study Commission on Records and Documents of Federal Officials hereby offers the following proposed Regulations for Implementation of the Privacy and Freedom of Information Act for public comment. Any interested person may submit comments on the proposed Regulations on or before September 29, 1976. Such comments should be addressed to the General Counsel, Public Documents Commission, Department of Justice, Room 1127, Washington, D.C. 20530.

Signed this 16th day of August, 1976.

HERBERT BROWNELL,
Chairman.

It is proposed to amend Title 5 of the CFR by adding a new Chapter XV consisting of Part 2505 to read as follows:

PART 2505—PRIVACY ACT

Sec.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 2505.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the National Study Commission on Records and Documents of Federal Officials (hereafter known as the Commission) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him for the purpose of review, amendment and/or correction.

§ 2505.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history, and that contains his name, or the identifying number, symbol or other identifying particular assigned to the individual such as a social security number;

(d) The term "system of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 2505.3 Procedures for requests pertaining to individual records in a record system.

An individual may submit a request in writing, delivered by mail or in person, to the General Counsel to the Commission, Justice Department, Room 1127, Washington, D.C. 20530, to determine if a system of records named by the individual contains a record pertaining to the individual, or if the Commission maintains any system of records which pertains to the individual. An individual who requires assistance in identifying a system of records, or in preparing a request for access to a system of records, or who needs assistance in requesting amendment of a record, may address such requests to the General Counsel, Justice Department, Room 1127, Washington, D.C. 20530.

§ 2505.4 Times, places, and requirements for the identification of the individual making a request.

An individual who delivers a request in person to the General Counsel to the Commission pursuant to § 2505.3 shall present the request to the Commission office at the Justice Department, Room 1127, Washington, D.C. 20530 on any business day between the hours of 9 a.m. and 5:30 p.m. "The requester should be prepared to identify himself by signature and/or by other evidence of identity." Requests for access to a system of records will be acknowledged within ten (10) days of receipt. The acknowledgment

will indicate (1) whether access will be granted, and, (2) that an approved access will be granted within 30 days unless, for good cause shown, the Commission is unable to do so.

§ 2505.5 Disclosure of the requested information to the individual.

Upon verification of a requester's identity by the General Counsel of the Commission, Justice Department, Room 1127, Washington, D.C. 20530, and in accordance with the identification provisions of § 2505.4, the Commission shall disclose to the individual the information contained in the record which pertains to that individual. The individual may be accompanied for the purpose by a person of his choosing; consent for a third party to review a record in any system of records must be in writing. Upon request of the individual to whom the record pertains, all information in the accounting of disclosures will be made available to him. In the event that the Commission denies any individual access to a record, the Commission will inform the individual of his right to judicial review.

§ 2505.6 Access to the accounting of disclosures from records.

An indiivdual may request access to a list of those persons to whom records about the individual have been disclosed. An individual seeking access to the accounting of disclosures from records pertaining to him should follow the same procedures as established above for access to the records themselves (see §§ 2505.3, 2505.4, 2505.5).

§ 2505.7 Request for correction or amendment of a record.

An individual should submit a request in writing to the General Counsel to the Commission which states the individual's desire to correct or to amend his record. This request is to be made in accordance with the provisions of § 2505.4.

§ 2505.8 Commission review of request for correction or amendment of the record.

Within ten (10) working days of the receipt of the request to correct or to amend a record, the General Counsel to the Commission will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 2505.9 Appeal of an intial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the General Counsel to the Commission to correct or to amend his record may submit a request for a review of such refusal to the Chairman of the Commission, Justice Department, Room 1127, Washington, D.C. 20530. Not later than thirty (30) working days from the date on which the individual requests such review, the Chairman will complete such review and make a final determination unless, for good cause shown, the Chairman extends such thirty-day period. If, after his review, the Chairman determines not to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his disagreement with the refusal of the Commission and may seek judicial review of the Chairman's determination under 5 U.S.C. 552 (g) (1) (A). A copy of the corrected record or statement of dispute will be provided to prior recipients of the information in question, to the extent that the Commission has an accounting of the disclosure of that information.

§ 2505.10 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, except as required or permitted under 5 U.S.C. 552a(b).

§ 2505.11 Fees.

The general policy of the Commission is to provide a copy or a portion of a record free of charge to an individual upon request. In cases where the records are voluminous, however, the Commission may, at its discretion, charge a fee when the cost would be in excess of five dollars ($5).

It is proposed to amend Title 5 of the CFR by adding Part 2510 to read as follows:

Sec.
2510.1 Purpose and scope.
2510.2 Requests for records.
2510.3 Commission response to requests for records.
2510.4 Appeal procedure within the Commission.
2510.5 Failure to meet administrative deadlines.
2510.6 Fee schedule.
2510.7 Prepayment of fees over $25.
2510.8 Form of payment.

§ 2510.1 Purpose and scope.

The purpose of these regulations is to establish a procedure, pursuant to the Freedom of Information Act, as amended 5 U.S.C. 552 (Pub. L. 90–23, as amended by Pub. L. 93–502,) by which records of the National Study Commission on Records and Documents of Federal Officials (hereafter referred to as the Commission) may be obtained by interested individuals.

§ 2510.2 Requests for records.

(a) Any individual who wishes to inspect or obtain copies of any record of the Commission shall submit a request in writing, addressed to the General Counsel to the Public Documents Commission, Justice Department, Room 1127, Washington, D.C. 20530. To facilitate processing requests, the phrase "FOIA REQUEST" should be placed on the front of the envelope.

(b) A request must reasonably describe the records to enable Commission personnel to locate them with reasonable effort. Where possible, specific information regarding dates, titles, etc. which may help identify the records should be supplied by the requester.

(c) If the Commission determines that a request does not reasonably describe a record, it shall inform the requester of this fact and extend an opportunity to confer promptly with a knowledgeable Commission employee to attempt to identify the records he is seeking.

§ 2510.3 Commission response to requests for records.

(a) The Commission shall inform the requester of its determination concerning that request within ten working days, unless additional time is required because:

(1) The request requires the collection of a substantial number of specified records; or

(2) The request is couched in categorical terms and requires an extensive search for the records responsive to it; or

(3) The request presents a need for consultation, which shall be conducted with all practicable speed, with another Department, agency, or commission having a substantial interest in the determination of the request.

In no event shall the extension exceed a total of ten working days.

(b) If the Commission determines to grant the request, it shall notify the requester of any conditions (e.g., payment of fees) and the approximate date upon which compliance will be effected. If it grants only a portion of the request, it shall treat the portion not granted as a denial.

(c) If the Commission denies the request, it shall immediately inform the requester of that decision and of the following:

(1) The reasons for the denial;

(2) The requester's right to appeal such denial to the Chairman of the Commision's at Justice Department, Room 1127, Washington, D.C. 20530;

(3) The requirement that such appeal be made within forty-five days of the date of denial; and

(4) The name and title or position of each person responsible for denial of the request.

(d) If the reason for not fulfilling the request is that the records requested are the records of another commission, Department, or agency, the Commission shall inform the requester of this fact and shall forward the request to that commission, Department, or agency for processing in accordance with the latter's regulations. If the agency has no knowledge concerning the requested records it shall notify the requester of that fact.

(e) 5 U.S.C. 552(b) provides that the requirements of the statute do not apply to matters that are:

(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such Executive Order.

(ii) Related solely to the internal personnel rules and practices of an agency.

(iii) Specifically exempted from disclosure by statute.

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(v) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(vi) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

(A) Interfere with enforcement proceedings;

(B) Deprive a person of a right to a fair trial or an impartial adjudication;

(C) Constitute an unwarranted invasion of personal privacy;

(D) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(E) Disclose investigative techniques and procedures; or

(F) Endanger the life or physical safety of law enforcement personnel.

(viii) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(ix) Geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting the record after deletion of the portions which are exempt under this section.

§ 2510.4 Appeal procedure within the Commission.

(a) If a request for records is denied, the person making the request shall have the right to appeal the denial. This appeal must be in writing and addressed to the Chairman of the Public Documents Commission, Justice Department, Room 1127, Washington, D.C. 20530. To facilitate processing of an appeal, the phrase "FOIA APPEAL" should be placed on the front of the envelope.

(b) If an appeal from a denial of an initial request is made to the Chairman, the Chairman shall inform the requester of the determination regarding that appeal within twenty working days of receipt of the appeal, unless the Chairman extends this period for good cause.

(c) If the Chairman grants the appeal, he shall inform the requester of any conditions (e.g., payment of fees) and the approximate date upon which compliance will be effected. If he grants only a portion of the appeal, he shall treat the portion not granted as a denial.

(d) If the Chairman determines to deny the appeal, he immediately shall inform the requester of that decision and of the following:

(1) The reasons for the denial;

(2) The right to judicial review of the denial in accordance with 5 U.S.C. 552 (a)(4); and

(3) The name and title or position of each person responsible for denial of the appeal.

§ 2510.5 Failure to meet administrative deadlines.

In the event the Commission fails to meet either of the administrative deadlines set forth in these regulations, it shall notify the requester, state the reasons for the delay, and the date by which it expects to dispatch determination. Although the requester may be deemed to have exhausted his administrative remedies under 5 U.S.C. 552(a)(6)(C), the Commission shall continue processing the request as expeditiously as possible and will dispatch the determination when it is reached within the applicable deadline.

§ 2510.6 Fee schedule.

In computing applicable fees, the Commission will consider the following costs in providing costs in providing the requested records.

(a) *Reproduction fees.* (1) The fee for reproducing copies of Commission records (by routine electrostatic copying up to and including material 8½ x 14 inches shall be $0.10 per page.

(2) The fee for reproducing copies of any Commission records over 8½ x 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

(b) *Search fees.* (1) The standard search fee shall be $4 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(2) When professional staff must be used to search for the requested records because clerical staff would be unable to locate them, the search fee shall be $8 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

§ 2510.7 Prepayment of fees over $25.

When the individual handling a request for Commission records determines that the anticipated total fee (search and reproduction) is likely to exceed $25, the requester shall be notified that the anticipated fee must be prepaid prior to the Commission's making the records available. The Commission will remit the excess paid by the requester or bill the requester for an additional amount according to the variations between the final fee charged and the amount prepaid.

§ 2510.8 Form of payment.

Payment shall be by check or money order payable to the National Study Commission on Records and Documents of Federal Officials and shall be addressed to the individual designated by the Commission in correspondence with the requester.

[FR Doc.76-25325 Filed 8-27-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the American Peregrine Falcon

The Director, United States Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a Proposed Rulemaking which would determine a portion of the Critical Habitat of the American Peregrine Falcon (*Falco peregrinus anatum*). This Proposal is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884; hereinafter the Act).

BACKGROUND

The American Peregrine Falcon is among the rarest and most critically Endangered birds in the United States, and has been official listed as Endangered since 1970. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable, undisturbed nesting sites. The Service recognizes that areas containing such sites may qualify for recognition as Critical Habitat as referred to in section 7 of the Act. A notice of intent to determine Critical Habitat for the American Peregrine Falcon was published by the Service in the FEDERAL REGISTER of May 16, 1975 (40 FR 21499-21500). Subsequently, in late 1975, the Director was notified by the Region 1 Director of the Service in Portland, and by the Director of the California Department of Fish and Game, that certain areas of northern California, used for nesting by the Peregrine, should be designated as Critical Habitat for the species. After evaluating this recommendation and supporting data, the Director determined to proceed with the Proposed Rulemaking.

The areas delineated below have been utilized extensively by Peregrine Falcons within the last few years, and all contain many excellent nesting sites for the species. These areas also have or are adjacent to high concentrations of passerine birds, taken as prey by the Falcons. The named zones referred to below

were so designated for convenience by field personnel. It is emphasized that these areas represent only small segments of what may be the overall Critical Habitat of the American Peregrine Falcon in the United States, and that additional areas may be proposed for designation in the near future.

EFFECTS OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

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

An interpretation of the term "Critical Habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting Critical Habitat of a species would not conform with Section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitat of the American Peregrine Falcon. The Director, therefore, desires, to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these Proposed Rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this Proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this Rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments received no later than October 29, 1976 will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Dated: August 20, 1976.

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

Accordingly, it is hereby proposed to amend 50 CFR Part 17:

1. By amending the Table of Sections for Subpart F of Part 17 to read as follows:

Subpart F—Critical Habitat

Sec.

* * * * *

17.68 American peregrine falcon.

2. By adding a new § 17.68 reading as follows:

§ 17.68 American peregrine falcon.

The following areas are critical habitat for the American Peregrine Falcon (*Falco peregrinus anatum*).

CALIFORNIA—Dry Creek Zone: areas of land, water, and airspace in Sonoma County, with the following components (Mt. Diablo Base Meridian): (a) T10N R11W W½ of SW¼ Sec. 6, W½ of NW¼ Sec. 6, NW¼ of NW¼ Sec. 7; T10N R12W Sec. 1, E½ of NE¼ Sec. 2, SW¼ of NE¼ Sec. 2, SE¼ Sec. 2, E½ of SW¼ Sec. 2, SE¼ of NW¼ Sec. 2, N½ of NE¼ Sec. 11, NE¼ of NW¼ Sec. 11, N½ of NE¼ Sec. 12, N½ of NW¼ Sec. 12; T11N R11W SW¼ of SE¼ Sec. 31, S½ of SW¼ Sec. 31; T11N R12W S½ of SE¼ Sec. 36, SE¼ of SW¼ Sec. 36; (b) T10N R11W NW¼ of SW¼ Sec. 1, W½ of NW¼ Sec. 1, N½ Sec. 2, N½ of SE¼ Sec. 2, N½ of SW¼ Sec. 2, N½ Sec. 3, N½ of SE¼ Sec. 3, N½ of SW¼ Sec. 3, NE¼ Sec. 4, N½ of SE¼ Sec. 4, NE¼ of SW¼ Sec. 4, E½ of NW¼ Sec. 4; T11N R11W E½ of SE¼ Sec. 33, S½ Sec. 34, S½ Sec. 35, W½ of SE¼ Sec. 36, SW¼ Sec. 36; (c) T11N R12W S½ Sec. 19, Sec. 30; T11N R13W SE¼ Sec. 24, E½ of SW¼ Sec. 24, E½ Sec. 25, E½ of SW¼ Sec. 25, E½ of NW¼ Sec. 25.

Palisades-Table Rock Zone: an area of land, water, and airspace in Napa County, with the following components (Mt. Diablo Base Meridian): T9N R6W S½ Sec. 5, S½ Sec. 6, Sec. 7, Sec. 8, Sec. 9, Sec. 16, Sec. 17, Sec. 18, Sec. 19, Sec. 20; T9N R7W E½ Sec. 12, E½ Sec. 13, NE¼ Sec. 24, E½ of SE¼ Sec. 24.

Mount St. Helena Zone: an area of land, water, and airspace in Lake, Napa, and Sonoma counties, with the following components (Mt. Diablo Base Meridian): T9N R7W W½ of NE¼ Sec. 3, W½ of SE¼ Sec. 3, W½ Sec. 3, Sec. 4, E½ Sec. 5, E½ of SW¼ Sec. 5, E½ of NW¼ Sec. 5; T10N R7W that portion of Sec. 20 east of Ida Clayton Road, Sec. 21, W½ of NE½ Sec. 22, W½ of SE¼ Sec. 22, W½ Sec. 22, W½ of NE¼ Sec. 27, W½ of SE¼ Sec. 27, W½ Sec. 27, Sec. 28, that portion of Sec. 29 east of Ida Clayton Road, that portion of the NE¼ Sec. 32 east and south of Ida Clayton Road, SE¼ Sec. 32, E½ of SW¼ Sec. 32, that portion of the SE¼ of NW¼ Sec. 32 south of the Ida Clayton Road, Sec. 33, W½ of NE¼ Sec. 34, W½ of SE¼ Sec. 34, W½ Sec. 34.

Cobb Mountain Zone: an area of land, water, and airspace in Lake and Sonoma counties, with the following components (Mt. Diablo Base Meridian): T11N R8W S½ of SE¼ Sec. 8, SE¼ of SW¼ Sec. 8, S½ of SW¼ Sec. 9, SW¼ of SE¼ Sec. 14, SW¼ Sec. 14, S½ Sec. 15, W½ of NE¼ Sec. 16, SE¼ Sec. 16, W½ Sec. 16, E½ Sec. 17, E½ of NW¼ Sec. 17, NE¼ Sec. 17, NE¼ of NE¼ Sec. 20, N½ of NE¼ Sec. 21, N½ of NW¼ Sec. 21, N½ Sec. 22, W½ of NE¼ Sec. 23, NW¼ Sec. 23.

[FR Doc.76-25327 Filed 8-27-76;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Morro Bay Kangaroo Rat

The Director, United States Fish and Wildlife Service, hereby issues a Proposed Rulemaking which would determine Critical Habitat for the Morro Bay Kangaroo Rat (*Dipodomys heermanni morroensis*) in coastal California. This Proposal is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

BACKGROUND

A notice of intent to determine Critical Habitat for the Morro Bay Kangaroo Rat was published by the Fish and Wildlife Service in the FEDERAL REGISTER of

May 16, 1975 (40 FR 21499-21500). On January 16, 1976, the Director of the California Department of Fish and Game petitioned the Director of the U.S. Fish and Wildlife Service to designate the area delineated below as Critical Habitat for the Morro Bay Kangaroo Rat. This petition was examined by Fish and Wildlife Service biologists who found that substantial evidence had been presented warranting this Proposed Rulemaking. The designated area contains a significant population of Morro Bay Kangaroo Rats, within an overall biotic community that still exists in a relatively natural state. Studies by the California Department of Fish and Game have found that this area contains all the elements required for the survival and normal needs of the Morro Bay Kangaroo Rat, and that these elements stand a good chance of being maintained if the area can be properly protected. Additions or modifications to the designated area may be proposed in the future.

EFFECTS OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

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

An interpretation of the term Critical Habitat was published by the Fish and Wildlife and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764-17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting Critical Habitat of a species would not conform with Section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under Section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitat of the Morro Bay Kangaroo Rat. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these Proposed Rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this Proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments received no later than October 29, 1976, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Dated: August 20, 1976.

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

Accordingly, it is hereby proposed to amend 50 CFR Part 17:

1. By amending the Table of Sections for Subpart F of Part 17 to read as follows:

Subpart F—Critical Habitat

Sec.

* * * * *

17.69 Morro Bay kangaroo rat.

2. By adding a new § 17.69 reading as follows:

§ 17.69 Morro Bay kangaroo rat.

The following area is Critical Habitat for the Morro Bay Kangaroo Rat (*Dipodomys heermanni morroensis*)

California. An area of land, water, and airspace in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R10E S½ Sec. 14, those portions of Sec. 23-24 west of Pecho Valley Road.

[FR Doc.76-25328 Filed 8-27-76;8:45 am]

[50 CFR Part 32]

HUNTING

Proposed Opening of Lake Alice National Wildlife Refuge, North Dakota to Hunting of Migratory Game Birds, Upland Game, Big Game

Notice is hereby given that it is proposed that 50 CFR Part 32 be amended by the addition of the Lake Alice National Wildlife Refuge, North Dakota, to the lists of refuge areas open for the hunting of migratory game birds, upland game, and big game, which are published at 50 CFR § 32.11, § 32.21 and § 32.31.

Pursuant to the authority of 16 U.S.C. 668dd(d), as redelegated to the Director of the United States Fish and Wildlife Service at DM 242.1.1, the Director may open refuge areas to public hunting upon a determination that it would be in accordance with provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest and that such uses are compatible with the major purposes for which such areas were established. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation. It is the purpose of this proposed rulemaking to allow the hunting of migratory game birds, upland game, and big game on the Lake Alice National Wildlife Refuge, which is presently prohibited.

Furthermore, pursuant to the requirements of § 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared on this proposal which will help determine whether this rulemaking constitutes a major Federal action significantly affecting the human environment. A copy of this assessment is available at the address below.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Therefore, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, on or before September 29, 1976. All relevant comments received will be considered by the Director prior to the issuance of final rulemaking.

Accordingly, it is proposed to amend §§ 32.11, 32.21 and 32.31 in Title 50 of the Code of Federal Regulations as set forth below:

§ 32.11 List of open areas; migratory game birds.

NORTH DAKOTA

LAKE ALICE NATIONAL WILDLIFE REFUGE

§ 32.21 List of open areas; upland game.

NORTH DAKOTA

LAKE ALICE NATIONAL WILDLIFE REFUGE

§ 32.31 List of open areas; big game.

NORTH DAKOTA

LAKE ALICE NATIONAL WILDLIFE REFUGE

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

AUGUST 26, 1976.

[FR Doc.76-25487 Filed 8-27-76;9:12 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[CM-6/88]

ADVISORY COMMITTEE TO THE UNITED STATES NATIONAL SECTION OF THE INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

Meeting

Notice is hereby given, pursuant to the provisions of Public Law 92-463, that a meeting of the Advisory Committee to the United States Section, International North Pacific Fisheries Commission, will meet on September 27, 1976 in the conference center of the Northwest Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington at 9:00 A.M. The meeting is to review fishing operations in the Convention Area in 1975, and preparations for the November 1976 annual meeting of the Commission. The meeting on September 27 will be open to the public. Persons wishing to attend the open session may participate in the discussions subject to instructions of the Chairman.

The Advisory Committee will also meet in closed session on September 28, 1976. At this meeting documents classified in accordance with Executive Order 11652 will be circulated and discussed and matters will be considered which the public interest requires be withheld from disclosure as provided in 5 USC 552 (b)(1).

Dated: August 24, 1976.

ROZANNE L. RIDGWAY,
Deputy Assistant Secretary.

[FR Doc.76-25279 Filed 8-27-76;8:45 am]

[CM-6/87]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 1 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 28, 1976 in the Aspen Conference Room, Office of Telecommunications, U.S. Department of Commerce, 1325 G Street, N.W., Washington, D.C., at 9:30 a.m.

Study Group 1 deals with: matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The agenda for the meeting will include the following:

1. Review conclusions of the 1976 International Meeting of Study Group 1;

2. Consider organization for work of U.S. Study Group 1;

3. Initiate program of work for U.S. Study Group 1 looking to the next international meeting.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: August 23, 1976.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

[FR Doc.76-25283 Filed 8-27-76;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Delegation Order 19]

FIRST DEPUTY COMPTROLLER OF THE CURRENCY, ET AL.

Order of Succession To Act as Comptroller

By virtue of the authority contained in 12 U.S.C. 4 and by Treasury Department Order No. 129 (Rev. No. 2) dated April 22, 1955, it is hereby ordered as follows:

A. During the absence or disability of the Comptroller of the Currency, or during a vacancy in such office, the First Deputy Comptroller of the Currency, Robert Bloom, shall possess the power and perform the duties attached by law to the office of the Comptroller as provided by 12 U.S.C. 4. The order of succession following the First Deputy Comptroller of the Currency shall be as follows:

(1) H. Joe Selby, First Deputy Comptroller of the Currency for Operations.
(2) Thomas G. DeShazo, Deputy Comptroller of the Currency.
(3) Robert A. Mullin, Deputy Comptroller of the Currency.

B. In the event of an enemy attack on the continental United States, all regional administrators of national banks, including any acting regional administrators, are authorized in their respective regions to perform any function of the Comptroller of the Currency, or the Secretary of the Treasury, whether or not otherwise delegated, which is essential to the carrying out of responsibilities otherwise assigned to them. The respective officers will be notified when they are to cease exercising the authority delegated in this paragraph.

C. Delegation Order No. 18 is hereby repealed.

Dated: August 24, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-25287 Filed 8-27-76;8:45 am]

Office of the Secretary

CLEAR SHEET GLASS FROM ROMANIA

Antidumping; Extension of Investigatory Period

On March 9, 1976, information was received in proper form that clear sheet glass from Romania was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of April 8, 1976 (41 F.R. 14909).

The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or the likelihood of injury to, or prevention of establishment of an industry in the United States.

Notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), cannot reasonably be made within 6 months. The determination under section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), will, therefore, be made within no more than 9 months.

The reasons and basis for the above conclusion are as follows:

The need for the collection of additional data, along with the need for analysis of all submissions, makes it inadvisable to take tentative action at this time.

(Sec. 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), and § 153.32 of the Customs Regulations (19 CFR 153.32))

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 24, 1976.

[FR Doc.76-25331 Filed 8-27-76;8:45 am]

HUNGARY

Income Tax Treaty Discussions

The Treasury Department announces that representatives of the United States and Hungary will meet in Budapest during the week of September 20, 1976 for preliminary discussions of a prospective income tax treaty between the two countries.

The proposed convention would deal with such issues as the taxation of income

from business ventures, investment, and employment in the other country, and would include provisions for nondiscrimination in tax treatment and for administrative cooperation in resolving income tax questions.

Comments are invited on the income tax aspects of doing business in Hungary. Interested persons may wish to refer to the income tax conventions recently concluded by the United States with Romania and Poland and to the model draft treaty issued by the Treasury Department on May 18, 1976. Comments should be submitted in writing to Assistant Secretary for Tax Policy, Charles M. Walker, U.S. Treasury, Washington, D.C. 20220 as promptly as possible so that they may be taken into account in the September discussions.

Dated: August 24, 1976.

DAVID S. FOSTER,
International Tax Counsel and Director, Office of International Tax Affairs.

[FR Doc.76-25288 Filed 8-27-76;8:45 am]

KNITTING MACHINES FOR LADIES' SEAMLESS HOSIERY FROM ITALY

Antidumping; Determination of Sales at Less Than Fair Value

Information was received on July 15, 1975, from Rockwell International, Reading, Pennsylvania, alleging that knitting machines for ladies' seamless hosiery from Italy were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of August 15, 1975 (40 F.R. 34424).

The Secretary determined that it was inadvisable to take tentative action within the normal 6-month investigatory period. The investigatory period in this case was therefore extended to 9 months and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of February 12, 1976 (41 F.R. 6289).

A "Withholding of Appraisement Notice" issued by the Secretary of the Treasury was published in the FEDERAL REGISTER of May 21, 1976 (41 F.R. 20899).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, knitting machines for ladies' seamless hosiery from Italy are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160 (a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* It appears that 95 percent of imports of the subject merchandise from Italy were manufactured by either Billi-Matec, S.p.A., Florence, Italy, or DiLonati Francesco & Figli, S.N.C., Brescia, Italy. Therefore, the investigation was limited to these two manufacturers.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison for DiLonati Francesco &, Figli, S.N.C. is between purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales were made to non-related customers in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 C.F.R. 153.2), was used since such or similar merchandise appears to be sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

The proper basis for comparison for Billi-Matec, S.p.A., appears to be between purchase price and the constructed value of such or similar merchandise. Constructed value, as defined in section 206 of the Act (19 U.S.C. 165), was used since all sales of such or similar merchandise in the home market and to third countries were at less than cost of production.

c. *Purchase Price.* For the purposes of this final determination of sales at less than fair value, adjustments have been made on the following bases. In accordance with section 153.31(b), Customs Regulations (19 C.F.R. 153.31(b)), pricing information was obtained concerning imports of knitting machines for ladies' seamless hosiery from Italy during the period March 1 through October 31, 1975, from both companies.

In the import transaction, all of the merchandise was purchased, or agreed to be purchased, prior to the time of exportation by the persons by whom or for whose account it was imported, within the meaning of the Act. The purchase price has been calculated on the basis of the c.i.f., duty paid, price to unrelated U.S. purchasers. Deductions have been made for transportation expenses, including Italian inland freight, U.S. import duties, insurance and installation and interest expenses, where applicable. An addition has been made for rebates of indirect taxes made upon the exportation of this product, as appropriate.

d. *Home Market Price.* For the purposes of this final determination of sales at less than fair value, adjustments have been made on the following bases. The home market price for DiLonati Francesco & Figli, S.N.C. was calculated on the basis of the delivered price in the home market to unrelated purchasers. Adjustments have been made for installation expenses, for discounts, and for differences in commissions in the two markets, as appropriate. Adjustment for commissions relates to commissions paid on certain sales in both markets. Adjustment for discounts relates to quantity discounts actually given to home market purchasers.

e. *Constructed Value.* The fair value for Billi-Matec, S.p.A., was calculated on the basis of constructed value. The constructed value is the sum of the costs of materials and of fabrication or other processing involved in producing the merchandise, plus an amount for general expenses equal to that actually incurred by this manufacturer in sales of merchandise of the same general class or kind as the merchandise under consideration plus an amount for profit equal to that required by section 206(a)(2)(B) of the Act, plus the cost of all containers and coverings and all other expenses incidental to placing the merchandise in condition, packed ready for shipment to the United States.

f. *Result of Fair Value Comparisons.* Using the above criteria, purchase price was found to be lower than the home market price or constructed value, as appropriate, of such or similar merchandise. Comparisons were made on approximately 100 percent of sales of the subject merchandise to the United States by both manufacturers during the investigative period. Margins were found, ranging from 45.6 percent to 93.3 percent, with a weighted average margin of 61.78 percent, for sales made by Billi-Matec, S.p.A., on 100 percent of the sales compared, and from 3 percent to 25 percent, with a weighted average margin of 17 percent, for sales made by DiLonati Francesco & Figli, S.N.C., on 95 percent of the sales compared.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 24, 1976.

[FR Doc.76-25332 Filed 8-27-76;8:45 am]

PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

Antidumping Proceeding Notice

On August 5, 1976, information was received in acceptable form pursuant to sections 153.26 and 153.27, Customs Regulations (19 C.F.R. 153.26, 153.27), from the Minnesota Mining and Manufacturing Company (3M), indicating the possibility that pressure sensitive plastic tape from West Germany is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States. This evidence indicates that decreases in employment and underutilization of production facilities have occurred in the U.S. industry during the last 3 years. The evidence also indicates that the petitioner's share of the U.S. market has declined

since 1972, and that 1976 imports of the subject merchandise from West Germany have increased more than threefold from 1973.

Having conducted a preliminary investigation as required by § 153.29 of the Customs Regulations (19 C.F.R. 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the constructed value.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 C.F.R. 153.30).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

AUGUST 25, 1976.

[FR Doc.76-25333 Filed 8-27-76;8:45 am]

[Public Debt Series No. 22-76]

TREASURY NOTES OF SERIES E-1980

Interest Rates

AUGUST 25, 1976.

I. INVITATION FOR TENDERS

Dated and bearing interest from September 14, 1976; Due September 30, 1980.

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $2,000,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series E-1980 (CUSIP No. 912827 FY 3). The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, August 31, 1976, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTION OF NOTES

1. The notes will be dated September 14, 1976, and will bear interest from that date, payable on a semiannual basis on March 31 and September 30, 1977, and thereafter on March 31 and September 30 in each year until the principal amount becomes payable. They will mature September 30, 1980, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Tuesday, August 31, 1976. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account. Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After a determination is made as to which tenders are accepted, a coupon rate will be determined at a ⅛ of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above 99.000. That rate of interest will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $2,000,000,000 of notes offered, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price[1] (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before September 14, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Payment must be in cash, in other funds immediately available to the Treasury by September 14, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Thursday, September 9, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Tuesday, September 7, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not

[1] Average price may be at, or more or less than 100.000.

completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

EDWIN H. YEO III,
Acting Secretary of the Treasury.

[FR Doc.76-25483 Filed 8-26-76;4:56 pm]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 17, 1976.

The USAF Scientific Advisory Board ad hoc Committee on Aeronomy will hold meetings on September 21–22, 1976 at Headquarters Air Defense Command, Colorado Springs, Colorado from 8:30 a.m. to 5:00 p.m. both days.

The Committee will receive classified briefings and hold classified discussions on Aeronomy.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-25282 Filed 8-27-76;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 18, 1976.

The USAF Scientific Advisory Board Information Processing Panel will hold meetings at Rome Air Development Center, Griffiss Air Force Base, New York on September 22, 1976 from 9:00 a.m. to 5:00 p.m. and at the Electronic Systems Division, Hanscom Air Force Base, Massachusetts on September 23 and 24, 1976 from 9:00 a.m. to 5:00 p.m.

The Panel will receive classified briefings and hold classified discussions on the Rome Air Development Center and Electronic Systems Division computer research programs.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-25281 Filed 8-27-76;8:45 am]

Defense Privacy Board

GUIDELINES FOR RELEASE OF PERSONAL INFORMATION

Application of the Privacy Act and Exemption of the Freedom of Information Act

General notice is hereby given that the following Department of Defense proposed guideline shall govern the application of the Privacy Act (Public Law 93–579, December 31, 1974) and Exemption 6 of the Freedom of Information Act in responding to requests for information or assistance concerning Department of Defense personnel.

Interested persons are invited to participate in the formulation of the following proposed guideline by submitting written data, views, comments and arguments to the Executive Secretary, Defense Privacy Board, Room 7A–057, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20314. All material received on or before September 29, 1976 will be considered.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 25, 1976.

GUIDELINES FOR RELEASE OF PERSONAL INFORMATION TO COMMERCIAL ENTERPRISES

1. *Scope.* The provisions of this guideline apply to all individuals requesting personal information or assistance concerning Department of Defense military and civilian personnel. The provisions also apply to all commanders, supervisors, personnel officers, Privacy Act, and Freedom of Information Act officials, administrators and legal counsels within the various components of the Department of Defense.

2. *Background.* It is the policy of the Department of Defense, consistent with the Freedom of Information Act (5 U.S.C. 552) to make available to the public the maximum amount of information concerning its operations and activities. Information may be disclosed without the written consent of the individual to whom the information pertains if such disclosure is required under the Act. Section 552(b)(6) of that Act, however, clearly states that information in personnel, medical and similar files is exempt from the provisions of the Act if disclosure to a member of the public would result in a clearly unwarranted invasion of personal privacy. This guideline attempts to strike a balance between the rights of all requestors under the Freedom of Information Act, to obtain information in Department of Defense records and the rights afforded to individuals pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) to avoid an unwarranted invasion of personal privacy by the release of personal information from Department of Defense records. This guideline attempts to advise what personal information concerning individuals of the Department of Defense can and cannot be disclosed. To comply with the Privacy Act, no record contained in a system of reords filed by name or personal identifier, maintained within the Department of Defense can, in general, be disclosed by any means of communication to any person, or to any agency outside the Department of Defense, except as a routine use or pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

3. *Policy guidelines.* Commercial enterprises hold the same position and relationship to their customers and to the Government as they did before the enactment of the Privacy Act. In this connection, banks, branch banks, military banking facilities, credit unions, or any type of commercial facility or concession operating on any Department of Defense installation or facility have no better standing than any other commercial enterprise or public requester in the private sector to obtaining personal information concerning Department of Defense personnel. Within their usual business relationships commercial enterprises are assumed to be responsible for safeguarding the information provided by their clients and for obtaining only such information as is reasonable and necessary to conduct business. This includes normal credit information and proper identification, which may include the Social Security number.

a. *Indebtedness.*—The Department of Defense policy towards personal indebtedness is set forth in DoD Directive 1344.9, July 1, 1969 (32 C.F.R. 43a) for military personnel and the Civil Service Commission Federal Personnel Manual (5 C.F.R. 735.207) for federal civilian employees. The established policy towards indebtedness expressed in these documents is unaffected by the Privacy Act. Department of Defense personnel are expected to pay all just financial obligations in a proper and timely manner.

b. *Releasable information.*—Information which would be released as required under provisions of the Freedom of Information Act is releasable to a member of the public. No vertification of identity shall be required of an individual or commercial enterprise seeking access to information from records which are otherwise available to any member of the public under the Freedom of Information Act (5 U.S.C. 552) unless this is relevant to determining whether a clearly unwarranted invasion of privacy would result from the requested release. Such

information requests not involving research or duplication may be releasable by telephone. Examples of personal information pertaining to military personnel which normally are releasable under the Freedom of Information Act without an unwarranted invasion of personal privacy are: name, rank, date of rank, salary, present and past duty assignments, future assignments which are final, office phone number, source of commission, military and civilian educational level, and promotion sequence number. Disclosure of personal information pertaining to civilian Department of Defense employees shall be made in accordance with the Civil Service Commission Federal Personnel Manual (5 C.F.R. Part 294). There is nothing to preclude a written request for personal information pursuant to the Freedom of Information Act. However, a formal written request obligates the addressee to various automatic legal obligations should the request be delayed or denied. Search and duplication may require more time for processing and subject the requestor to search and duplication fees (32 C.F.R. 286.10).

c. *Restrictions on release of personal information.*—(1) *Social Security number (SSN)*—Disclosure of the SSN may constitute a clearly unwarranted invasion of personal privacy. The SSN is considered an individual identifier item in accordance with the Privacy Act, which need not be disclosed in all instances without the prior written consent of the individual concerned.

(2) *Home addresses*—The home address of an individual is considered to be personal information, the release of which may be considered a clearly unwarranted invasion of personal privacy. In this regard, an individual's name and address may not be sold or rented unless specifically authorized by law. Lists or compilations of names and home addresses, or single home addresses normally will not be disclosed, without the prior written consent of the individual concerned.

(3) *Home telephone numbers*—An individual's home telephone number falls within the same restrictions imposed on home addresses set forth in (2) above.

(4) *Individual consent*—Disclosure may be authorized for any personal information, including that set forth in c. above, when prior written consent for release is obtained from the individual concerned. There is nothing to preclude commercial enterprises in their direct bilateral negotiations from soliciting any personal information deemed necessary from the individual concerned or from incorporating consent to disclosure of personal information in agreements signed by their potential customers. Such an agreement might require the customer to sign a consent to the release of certain personal information at the time of a conditional sale, agreement or the like. Commercial enterprises may incorporate the following conditions of disclosure of personal information in all agreements honored by the Department of Defense as meeting the prior written consent condition for the release of information:

I hereby authorize the Department of Defense and its various departments and commands to verify my social security number or other identifier and disclose my home address to authorized (name of commercial enterprise) officials so that they may contact me in connection with my financial business with (name of commercial enterprise). All information furnished will be used solely in connection with my financial business relationship with (name of commercial enterprise).

When the commerical enterprise presents such signed authorizations, the military commands or installations shall provide the appropriate information.

e. *Providing locator assistance.*—In those cases where a Department of Defense member with a financial obligation is reassigned, and fails to inform a commercial enterprise or individual of his or her whereabouts, the remedy is to seek the locator assistance of the individual's last known commander or supervisor at the official position or duty station within that particular Department of Defense component. That commander or supervisor is obligated by the Freedom of Information Act to either furnish the individual's new official duty location address to the requestor or to forward, through official channels, any correto the individual's new commander or supervisor for appropriate assistance and response. Correspondence addressed specifically to the individual concerned at his or her last official place of business or duty station is forwarded as provided by postal regulations to the new location, but the individual may choose not to respond. However, once an individual's affiliation with the Department of Defense is terminated through separation or retirement, the locator assistance the Department may render in the disclosure of home address is severely curtailed. At most, the Department may at its discretion forward correspondence to the individual's last known home address. The individual may choose not to respond and the Department of Defense will not act as an intermediary for private matters concerning former Department personnel who are no longer affiliated with it.

[FR Doc.76-25326 Filed 8-27-76;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 76-19]

DONALD H. ANDERSON, M.D., PORTLAND, MICHIGAN

Hearing

Notice is hereby given that on April 30, 1976, the Drug Enforcement Administration, Department of Justice issued to Donald H. Anderson, M.D., Portland, Michigan an Order to Show Cause as to why the Drug Enforcement Administration should not deny the Applications for Registration under the Controlled Substances Act of 1970, of the Respondent executed on May 13, 1974 and May 24, 1975 pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. September 9, 1976 or as soon thereafter as other pending matters will allow in the Tax Court Courtroom No. 1017, Federal Building and Courthouse, 231 West Lafayette Street, Detroit, Michigan.

Dated: August 16, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.76-25365 Filed 8-27-76;8:45 am]

IMPORTERS OF CONTROLLED SUBSTANCES

Registration

By Notice dated May 28, 1976, and published in the FEDERAL REGISTER on June 7, 1976; (41 FR 22848), Applied Science Labs., Inc., 139 North Gill Street, Box 440, State College, PA 16801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug:	*Schedule*
3,4-Methylenedioxy amphetamine	I
Bufotenine	I
Diethyltryptamine	I
Dimethyltryptamine	I
Piminodine	II

No comments or objections have been received. Additionally, there are currently no registered domestic bulk manufacturers or applicants therefor, of the substances listed. The substances, if imported will be supplied exclusively for authorized research or as chemical analysis standards. Therefore, in accordance with 21 U.S.C. 952(a)(2)(B) and 21 CFR Section 1311.42, and pursuant to Section 1008(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 23, 1976.

JERRY N. JENSON,
Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-25321 Filed 8-27-76;8:45 am]

[Docket No. 75-30]

JOHN H. PERRY HOOKER, M.D.

Revocation of Registrations

On November 11, 1975, the Acting Administrator, Drug Enforcement Administration (DEA) issued to John H. Perry Hooker an Order to Show Cause as to why his registrations (AP1959963 and AP1123481) should not be revoked for the reason that he was convicted on

October 15, 1975, in the United States District Court for the District of Massachusetts of one count of conspiracy to distribute Schedule II controlled substances and twenty-six counts of unlawful distribution of controlled substances, all felonies related to the distribution of controlled substances.

On December 16, through counsel, Dr. John H. Perry Hooker (Respondent) requested a hearing on the Order to Show Cause and on May 18, 1976, a hearing was held in Boston, Massachusetts before Administrative Law Judge Francis L. Young.

On August 6, 1976, Judge Young certified to the Administrator, pursuant to 21 CFR 1316.65 his recommended findings of fact and conclusions of law, a recommended decision, and the record of the proceedings in this matter. The Administrator, pursuant to 21 CFR 1316.66 hereby publishes his final order in this proceeding based upon the findings of fact and conclusions of law set forth below.

The Administrative Law Judge found, inter alia, that on October 15, 1975, in the United States District Court for the District of Massachusetts the Respondent was convicted of one count of conspiracy to distribute Schedule II controlled substances and twenty-six counts of unlawful distribution of a controlled substance. Furthermore, Judge Young stated that it was quite apparent that Respondent was simply selling prescriptions without any effort to prescribe these substances for any legitimate medical need or purpose. The Administrator adopts these findings of fact.

The Administrative Law Judge concluded, as a matter of law, that there is a lawful basis for the Administrator, pursuant to the Controlled Substances Act of 1970, 21 U.S.C. 801 et seq., to revoke the two DEA registrations previously issued to Respondent. The Administrator adopts this conclusion of law.

The Administrative Law Judge recommended that the Administrator revoke Respondent's Registrations AP1959963 and AP1123481. The Administrator accepts this recommendation.

Therefore, under the authority vested in the Attorney General by Section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration by § 0.100, Title 28 Code of Federal Regulations, the Administrator hereby orders that Certificates of Registrations of John H. Perry Hooker (DEA Registrations AP1959963 and AP1123481) be, and hereby are revoked, effective immediately.

Dated: August 24, 1976.

PETER B. BENSINGER,
Administrator.

[FR Doc.76-25319 Filed 8-27-76;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated June 14, 1976, and published in the FEDERAL REGISTER on June 18, 1976; (41 FR 24734), Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, N.Y. 11101, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	*Schedule*
Amphetamine	II
Methamphetamine	II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: August 23, 1976.

JERRY N. JENSON,
Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-25320 Filed 8-27-76;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated June 14, 1976, and published in the FEDERAL REGISTER on June 18, 1976; (41 FR 24734), Abbott Laboratories, 14th & Sheridan Road, Attn: Customer Service D-345, North Chicago, Illinois 60064, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pentobarbital, a basic class controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of pentobarbital is granted.

Dated: August 23, 1976.

JERRY N. JENSON,
Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-25322 Filed 8-27-76;8:45 am]

[Docket No. 76-4]

REED ALBERT SHANKWILER, D.O., DETROIT, MICHIGAN

Hearing

Notice is hereby given that on January 8, 1976, the Drug Enforcement Administration, Department of Justice issued to Reed Albert Shankwiler, D.O., Detroit, Michigan an Order to Show Cause as to why the Drug Enforcement Administration Registration No. AS 2767309 issued to him pursuant to Section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m., September 8, 1976, in the Tax Court Courtroom No. 1017, Federal Building and Courthouse, 231 West Lafayette Street, Detroit, Michigan.

Dated: August 16, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.76-25366 Filed 8-27-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14836-A]

ALASKA

Alaska Native Claims Selection

AUGUST 5, 1976.

Pursuant to the order from the Alaska Native Claims Appeal Board dated May 26, 1976, the following decision of March 18, 1976 (Lands Proper for Selection, Approved for Interim Conveyance), as modified by decision of March 25, 1976 (Decision Modified in Part), is hereby published once in the FEDERAL REGISTER and once a week for four (4) consecutive weeks in THE TUNDRA TIMES.

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Ukpeagvik Inupiat Corporation, Box 427, Barrow, Alaska 99723—F-14836-A—Village Selection.

LANDS PROPER FOR SELECTION APPROVED FOR INTERIM CONVEYANCE

On November 15, 1973, the Ukpeagvik Inupiat Corporation, the village of Barrow, filed selection application F-14836-A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, for the surface estate of lands in the Barrow area. On March 25, 1975, patent was issued for a portion of the lands selected containing 2.80 acres.

The application is properly filed and meets the requirements of the act and of the regulations issued pursuant to it. The selected lands described below are unoccupied and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands,

aggregating approximately 153,791 acres, is considered proper for acquisition by the Ukpeagvik Inupiat Corporation and is hereby approved for interim conveyance pursuant to section 14(a) of the act:

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 20 N., R. 17 W.
Sections 5 through 8, inclusive;
Sections 17 through 20, inclusive;
Sections 29 and 30, all.
T. 20 N., R. 18 W.
Sections 1 through 4, inclusive;
Sections 9 through 16, inclusive;
Sections 21 through 28, inclusive;
T. 20 N., R. 19 W.
Sections 1 through 3, inclusive;
Sections 4 through 6, fractional;
Section 7, all;
Section 8, fractional;
Sections 9 through 30, inclusive.
T. 20 N., R. 20 W.
Sections 1 through 4, fractional;
Section 9, fractional;
Sections 16 and 17, fractional;
Sections 19 and 20, fractional;
Section 21, all;
Section 29, all;
Sections 30 and 31, fractional.
T. 21 N., R. 16 W.
section 1, fractional;
sections 2 through 10, inclusive;
sections 11 through 15, fractional;
sections 16 through 20, inclusive;
sections 21 through 23, fractional;
sections 24 through 27, inclusive;
section 28, fractional;
sections 29 through 36, inclusive.
T. 21 N., R. 18 W.
sections 1 through 36, inclusive.
T. 21 N., R. 19 W.
section 3, all;
sections 4 and 5, fractional;
section 8, fractional;
section 9, all;
section 16, all;
sections 17 through 19, fractional;
sections 20 and 21, all;
section 28, all;
sections 29 through 35, fractional.
T. 21 N., R. 20 W.
sections 25 and 36, fractional.
T. 22 N., R. 16 W.
sections 16 through 18, fractional;
section 19, all;
sections 20 through 23, fractional;
sections 26 and 27, fractional;
sections 28 through 32, inclusive;
sections 33 through 36, fractional.
T. 22 N., R. 17 W.
sections 4 through 6, fractional;
sections 7 and 8, all;
sections 9 and 10, fractional;
sections 12 through 16, fractional;
sections 17 through 36, inclusive.
T. 22 N., R. 18 W.
section 1, fractional;
section 2, all;
section 3, excluding right-of-way 44 L.D. 513, F-14738;
section 4, excluding U.S. Survey 4227;
section 5, excluding U.S. Survey 4227;
section 6, fractional, excluding U.S. Survey 2244, U.S. Survey 2979, U.S. Survey 4227, and U.S. Survey 4615;
section 7, excluding U.S. Survey 4227 and U.S. Survey 4615, and right-of-way 44 L.D. 513, F-18794 (VOR Site only);
section 8, excluding U.S. Survey 4227;
section 9, excluding U.S. Survey 4227;
section 10, excluding PLO 2344;
section 11, excluding PLO 2344;
section 12, fractional;
section 13, all;
section 14, excluding PLO 2344 and Special Land Use Permit F-7715;
section 15, excluding PLO 2344 and Special Land Use Permit F-7715;
sections 16 through 36, inclusive.
T. 22 N., R. 19 W.
section 12, fractional, excluding U.S. Survey 4615;
Section 13, fractional, excluding U.S. Survey 4615;
section 14, fractional;
sections 22 through 25, fractional;
section 26, all;
section 27, fractional;
sections 33 and 34, fractional;
sections 35 and 36, all.
T. 23 N., R. 16 W.
section 7, fractional;
sections 16 through 18, fractional;
sections 21 through 23, fractional;
sections 25 and 26, fractional.
T. 23 N., R. 17 W.
sections 3 through 5, fractional;
sections 7 and 8, fractional;
section 10, fractional, excluding PLO 2344;
section 11, fractional, excluding PLO 2344;
section 12, fractional;
section 18, fractional;
section 31, fractional.
T. 23 N., R. 18 W.
section 12, fractional;
section 13, fractional, excluding PLO 2344;
section 24, fractional, excluding PLO 2344;
section 25, fractional, excluding PLO 2344;
section 31, fractional excluding U.S. Survey 1432, U.S. Survey 4615;
section 32, fractional, excluding U.S. Survey 1432, U.S. Survey 4615, and PLO 2344;
section 33, excluding PLO 2344;
section 34, excluding PLO 2344;
section 35, excluding PLO 234 ;
section 36, fractional, excluding PLO 2344.
T. 24 N., R. 17 W.
sections 32 and 33, fractional.

The interim conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391); 43 U.S.C. 945.

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914 (38 Stat. 305); 43 U.S.C. 975(d).

3. The subsurface estate therein, and all rights, priviliges, immunities and appurtenances, of whatsoever nature, accruing into said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688); 43 U.S.C. 1601–1624.

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688); the following easements referenced by easement identification number (EIN) on the easement map in case file F-14836-EE are reserved to the United States and subject to further regulation thereby:

a. A site easement for public purposes and a road easement for use by the public to gain access to said site. The locations of said easements are:

A five (5) acre site easement covering the Rogers-Post Monument (EIN 9-C4) and a road easement one hundred (100) feet in width to said site from the Barrow-Wainwright Road easement (EIN 3-C5, E), and its use is to be controlled by applicable State and Federal law or regulations.

b. A one (1) acre site easement for public purposes covering the site of the original village of Barrow at point Barrow (EIN 10-C4), and its use is to be controlled by applicable State and Federal law or regulations.

c. A trail easement twenty-five (25) feet in width for use by the public to gain access to and from public lands south of the selection. Said easement is located along the route of the existing winter trail along the Chukchi Sea coast from the Division of Aviation tract at Barrow, southerly to the public lands outside the selection and northerly from the boundary of the Navy Arctic Research Laboratory site along the existing truck trail to Point Barrow and extending beyond to the Arctic Research site at Plover Point (EIN 1-C5, E), and its use is to be controlled by applicable State or Federal law or regulations.

d. A road easement one hundred (100) feet in width for the proposed Barrow-Wainwright Road for use by the public to gain access to and from public lands south of the selection. Said easement is located along the alignment proposed by the Alaska Department of Highways from the Emaiksoun Lake road southerly towards Wainwright and including a spur to Emaiksoun Lake (EIN 2-C5, E), and its use is to be controlled by applicable State or Federal law or regulations.

e. A road easement one hundred (100) feet in width for use by the public to gain access to and from public lands east of the selection. Said easement is located along the existing 44 L.D. 513 right-of-way from the Navy Arctic Research Laboratory site to the Navy gas well and continuing easterly to public lands outside the selection (EIN 4-C5, E), and its use is to be controlled by applicable State or Federal law or regulations.

f. A road easement one hundred (100) feet in width for use by the public to gain access to and from public lands south of the selection. Said easement begins from the Barrow-Wainwright Road easement and runs southeasterly along the west shore of Lake Sungovoak to lands south of the selection (EIN 4b-C5, E), and its use is to be controlled by applicable State or Federal law or regulations.

g. A road easement one hundred (100) feet in width for use by the public to gain access to and from public lands to the south and east of the selection. Said easement begins at Barrow and runs southerly along the route proposed by the village corporation, past the east shore of Lake Sungovoak to lands south of the selection (EIN 5-C5, M), and its use is to be controlled by applicable State or Federal law or regulations.

h. The following existing 44 L.D. 513 rights-of-way and appurtenances thereto, constructed by the United States through, over, or upon the land herein described and the right of United States, its agents or employees to maintain, operate, repair, or improve the same so long as needed or used for or by the United States (EIN 11-C4, 44 L.D. 513):

(1) F-013216;
(2) F-022945;
(3) F-026975;
(4) F-031617, Parcels A, B, and C;
(5) F-035319;
(6) F-12605;

(7) F–18794.

i. In addition to the foregoing, the United States reserves:

(1) The general right to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes, together with the right to do all things necessary in connection therewith.

(2) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide public access to and along the marine coastline and use of such shore for purposes such as the beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses (EIN 6–C5). Deviations from the waterline are permitted when specific conditions so require, e.g., impassible topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be ogligated to convey to the United States an acceptable alternate access route at no cost to the United States, prior to the creation of such obstruction.

(3) An easement for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. This easement also includes the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of this easement shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easement will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement, provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of this easement that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

j. Furthermore, the United States incorporates by reference the agreement of May 14, 1974, between the United States Department of the Navy and the Arctic Slope Regional Corporation and four Native village corporations, and reserves those easements necessary to implement said agreement. A copy of the agreement is located in Bureau of Land Management file F–14836–EE.

The grant of lands by the interim conveyance shall be subject to:

1. Issuance of a patient confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339, 341), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him.

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 703; 43 U.S.C. 1613(c), that the grantee hereunder convey those portions of land hereinafter granted, as prescribed in said section.

Interim conveyance to the lands remaining in the application will be made at a later date. Conveyance to the lands in T. 22 N., R. 18 W., Umiat Meridian covered by special land use permit F–7715 will be made after the permittee has met the stipulations contained in the permit and the lands are restored to their former condition. It should be noted that no interim conveyance will be issued to the Arctic Slope Regional Corporation for the subsurface estate of these lands, since the lands involved are located within Naval Petroleum Reserve No. 4. Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that when a village corporation selects the surface estate to lands within Naval Petroleum Reserve No. 4, the regional corporation may make lieu selections of the subsurface estate, in an equal acreage, from other lands withdrawn by subsection 11 (a) of the act. Enclosed is a current status plat showing the lands approved for interim conveyance.

The Ukpeagvik Inupiat Corporation has the right of appeal to the Alaska Native Claims Appeal Board in accordance with the regulations in 43 CFR 4.900. If an appeal is taken, the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99501 and a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 1016 West Sixth Avenue, Suite 201, Anchorage, Alaska 99501, within 30 days from receipt of this decision. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations. See enclosed ASO Form 2650–4.

ROBERT E. SORENSON,
Chief, Branch of Lands and Mineral Operations.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the THE TUNDRA TIMES. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 and with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 1016 West Sixth Avenue, Suite 201, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until September 27, 1976 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived their rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
Chief, Branch of Lands, and Minerals Operations.

[FR Doc.76-25316 Filed 8-27-76;8:45 am]

ALASKA NATIVE SELECTIONS

Waiver of Regulations for Arctic Slope Regional Corp.

AUGUST 25, 1976.

This order permits Arctic Slope Regional Corporation (ASRC) selections F–19148–5, 12, 15, 28, and 30 to be in less than whole township sizes as described in the above-listed selections presently on file with the Alaska State Director, Bureau of Land Management.

The affected townships are:

UMIAT MERIDIAN

Tps. 9, 10, and 11 S., R. 61 W.
Tps. 7 and 8 S., R. 55 W.
Tps. 9 and 10 S., R. 57 W.
Tps. 4, 8, and 9 S., R. 45 W.
Tps. 5, 6, 8, and 9 S., R. 46 W.
Tps. 8 and 9 S., R. 44 W.
T. 1 N., Rs. 42 and 43 W.

Statement of findings. ASRC, a corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA), has requested a waiver of the regulations, 43 CFR 2652.3(c), to permit selections in less than whole township sizes in the above-listed townships and selection applications.

ASRC has offered in consideration for said waiver to contribute to the Department of the Interior pursuant to 43 U.S.C. 1364 the actual cost, up to $116,000, of any survey monumentation actually necessary in excess of the actual cost which would have been necessary if it were not for a waiver of regulations, 43 CFR 2652.3(c). Under this commitment, ASRC agrees to contribute the monies after the monumentation work has been completed and the amount of the contribution is established.

The Department has studied this request, decided to accept the offer, has

concluded that in light of the agreement there is no adverse effect on the United States, and that the waiver is in the best interest of ASRC and the United States. Therefore, the Department has decided to grant the waiver.

Pursuant to 43 CFR 2650.0-8 and in consideration of the agreement between ASRC and the United States under 43 U.S.C. 1364: *It is hereby ordered,* That 43 CFR 2652.3(c) is waived for ASRC as to the above listed townships and selection applications.

Signed at Washington, D.C., on August 25, 1976.

KENT FRIZZELL,
Under Secretary of the Interior.

[FR Doc.76-25385 Filed 8-27-76;8:45 am]

National Park Service

CANAVERAL NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 2 p.m., e.d.t., on September 16, 1976, at the Holiday Inn, 4951 South Washington Avenue, Titusville, Florida.

The purpose of the Canaveral National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior on all matters of planning, development, and operation of the Canaveral National Seashore.

The members or the Advisory Commission are as follows:

Mr. Ney C. Landrum (Chairman)
Mr. Robert H. Hudson
Ms. Doris Leeper
Mr. Thomas K. Wetherell

The matters to be discussed at this meeting will be input received at the public meetings of August 24 and 25, 1976, and consideration of planning alternatives for Canaveral National Seashore.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected than not more than 25 persons will be able to attend. Any member of the public may file with the commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Donald Guiton, Superintendent, Canaveral National Seashore, P.O. Box 2583, Titusville, FL 32780. Telephone 305-867-4675. Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at Park Headquarters.

Dated: August 20, 1976.

DAVID D. THOMPSON, Jr.,
Regional Director, Southeast Region.

[FR Doc.76-25284 Filed 8-27-76;8:45 am]

Office of the Secretary

[Docket No. WASH 76-1; Rulemaking Proceedings]

STATE OF ALASKA

Notice Revising Dates Previously Announced in Prehearing Order and Resetting Date of Hearing and Dates for Filing

On August 9, 1976, the Judge in the aforementioned proceeding issued an Order to all parties which amended his Prehearing Order published on page 21833 of the FEDERAL REGISTER on May 28, 1976.

The Amended Order reads as follows:

On the Judge's own motion—because of the late date of receipt of the 15 volumes of transcripts of the hearings held in Alaska during June and July—the dates for furnishing direct and rebuttal direct testimony are hereby extended and the previous dates published in the FEDERAL REGISTER, on page 21833 on May 28, 1976, within my Prehearing Order, are canceled.

Accordingly, the date for submission of direct testimony is hereby extended to September 9, 1976. The date for submission of rebuttal direct testimony is extended to September 30, 1976. In accordance with the aforementioned revised dates, the Washington hearings now scheduled to commence on September 21, 1976, are canceled and hereby rescheduled to commence on Tuesday, October 19, 1976, at a place to be announced at a later date.

After the above-quoted notice, the location for the hearings was established. The location is as follows: U.S. Courthouse, 3rd and Constitution Ave., NW., Washington, D.C., Courtroom 9, 4th floor.

MALCOLM P. LITTLEFIELD,
Administrative Law Judge.

[FR Doc.76-25298 Filed 8-2776;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

CANE CREEK WATERSHED PROJECT, LAUDERDALE COUNTY, TENN.

Availability of Negative Declaration

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Cane Creek Watershed Project, Lauderdale County, Tennessee.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, USDA, 561 United States Courthouse, Nashville, Tennessee 37203, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. Planned works of improvement, as described in this negative declaration, include completion of remaining conservation land treatment supplemented by completion of channel work on that portion of Cane Creek channel upstream from the U.S. Highway 51 bridge north of Riplay, Tennessee. This portion of Cane Creek has intermittent flow.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies as well as to interested individuals. Basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 561 United States Courthouse, Nashville, Tennessee 37203. A limited number of copies of the negative declaration are available from the same address to fill single-copy requests.

No administrative action on implementation of the proposal will be taken until September 14, 1976.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 USC 1001-1008)

Dated: August 16, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-25280 Filed 8-27-76;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

FRANK H. GUIDER, INC.

Petition for a Determination of Eligibility

A petition by Frank H. Guider, Inc., 39 Church Street, Port Jervis, New York 12771, whose subsidiary, Novelty Slipper Company, is a producer of footwear for women, was accepted for filing on August 23, 1976, under section 251 of the Trade Act of 1974 (Pub. L. 93-618). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the petitioning firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of September 9, 1976.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-25293 Filed 8-27-76;8:45 am]

National Oceanic and Atmospheric Administration

DETROIT ZOOLOGICAL PARK

Issuance of Permit To Take Marine Mammals

On May 27, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 21665) that an application had been filed with the National Marine Fisheries Service by Detroit Zoological Park, 8450 W. Ten Mile Road, Royal Oak, Michigan 48068, for a permit to take ten (10) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that, on August 23, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Detroit Zoological Park, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Regional Director, National Mairne Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 02673.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

AUGUST 23, 1976.

[FR Doc.76–25303 Filed 8–27–76;8:45 am]

KINGS PRODUCTIONS

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Kings Productions, Taft Broadcasting Company, 8050 Hosbrook Court, Cincinnati, Ohio 45326, to take eight (8) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for public display.

The dolphins will be taken by a professional collector from the waters off Melbourne, Florida, by means of an encircling net technique.

Of the 8 animals, 4 will be maintained and displayed at Kings Dominion, P.O. Box 166, Doswell, Virginia 23047, and 4 animals will be displayed at Kings Islands, P.O. Box 400, Kings Mills, Ohio 45034, during the operating season (April–October). Both parks are owned and operated by Taft Broadcasting Company.

The 4 dolphins being displayed at Kings Island will be maintained in a circular tank having a radius of fifteen feet with a nine foot depth, giving it a 47,685 gallon capacity. Two holding tanks, 14′ x 28′ x 5′ and 14′ x 32′ x 5′ are available for the animals.

The display at Kings Dominion will maintain the 4 dolphins in a circular tank having a 17′6″ radius with a depth of 9 feet, giving it a 64,905 gallon capacity. Two holding tanks are provided, 10′ x 20′ x 7′.

At the Kings Island and Kings Dominion facilities, the dolphins will work in teams of two, each team giving six shows daily. Both facilities are profit making organizations with approximately 4 million people visiting the parks seasonally.

During the off-season months, the animals will be maintained under training conditions in natural-water enclosures at Flipper's Sea School, Marathon Shores, Florida. Two enclosures, each having a surface area of 2,700 and 3,300 feet respectively. with an average minimum depth of 12 feet, will each house 4 dolphins. Although the 8 dolphins, being maintained and trained here during the winter months, will not be used as a scheduled part of the Sea School show, they will be displayed to the public. Flipper's Sea School is a profit organization, open year round to the public with four daily shows.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of the application to the Marine Mammal Commission and its committee of Scientific Advisors.

Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before September 29, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing in this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

HARVEY M. HUTCHINGS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

AUGUST 24, 1976.

[FR Doc.76–25300 Filed 8–27–76;8:45 am]

METROPARKS ZOO

Issuance of Permit To Take Marine Mammals

On June 21, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 24927) that an application had been filed with the National Marine Fisheries Service by Metroparks Zoo, Brookside Park, Cleveland, Ohio 44109, for a permit to take four (4) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on August 19, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Metroparks Zoo subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

AUGUST 19, 1976.

[FR Doc.76–25302 Filed 8–27–76;8:45 am]

PORT ELIZABETH MUSEUM

Receipt of Application for a Scientific Research and Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for scientific research and public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Scott R. Rutherford, Port Elizabeth Museum, Humewood, Port Elizabeth, South Africa, to participate in the taking of twleve (12) bottlenosed dolphins (*Tursiops truncatus* cf. *aduncus*), for the purpose of public display and scientific research.

Mr. Rutherford, a U.S. citizen is a Consultant Curator of the Oceanarium of the Port Elizabeth Museum. He will be involved in the capture of three (3) dolphins to be maintained at the ocea-

narium for display and research, and nine (9) dolphins to be taken, measured, freeze branded and released. The 3 dolphins to be captured for research and display will be freeze branded, measured, and weighed. In addition, along with digestive function and physiology studies, each animal will be given a week-long course of oxytetracycline daily to provide a marker for teeth age studies. Only animals between 2.0–2.3m in length will be considered for captivity.

Capture will be under the direction of Mr. Rutherford. Capture site will be Algoa Bay, off Port Elizabeth by means of a hoop-net technique.

At the facility the animals will be maintained in a quarantine circular pool, 1.6m in depth with a 6.43 square-meter surface area, until the animals are in satisfactory condition. After such time the animals will then be released into the main pool. The main pool, with resting areas, has a 1355 square-meter surface area with varying depths from 3 to 4.3m. The facilities daily display is for non-profit with annual attendance over 170,000 visitors.

Nine dolphins not less than 1.8m in length will be captured, freeze branded, given a 10mg/kg/body weight dosage of oxytetracycline that provides a dentine mark for later age determination in the event of recovery, and released. Copper brands will be applied to both sides of the dorsal fin. It is hoped the re-sighting of marked animals will provide insight into the seasonal population shifts, thus, compiling information essential for intended population estimates of this area.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above-described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following office:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before September 29, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

HARVEY M. HUTCHINGS,
Director for Resource Management, National Marine Fisheries Service.

AUGUST 24, 1976.

[FR Doc.76-25301 Filed 8-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

MINORITY ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1976:

MINORITY ADVISORY COMMITTEE, ADAMHA

September 15–17—OPEN Meeting
September 15, 1:00 p.m., Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Md.
September 16, 9:00 a.m., Conference Room C, Parklawn Building
September 17, 9:00 a.m., Room 403, Marvin Center, George Washington University, 800 21st Street, NW., Washington, D.C.

Contact: Ernest F. Hurst, Parklawn Building, Room 13C–15, 5600 Fishers Lane, Rockville, Md. 20852, 301–443–3838.

Purpose. The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, National Institute on Drug Abuse and the National Institute of Mental Health.

Agenda. This meeting will be open to the public. On September 15, there will be a report from the Executive Secretary and discussion of administrative matters. On September 16, the agenda will include discussion on Health Planning Systems, Community Mental Health Centers Legislation, a presentation by staff of the Center for Minority Group Mental Health Programs, National Institute of Mental Health, and discussions with the Directors of the National Institute on Alcohol Abuse and Alcoholism, National Institute on Drug Abuse, and National Institute of Mental Health. On September 17, the Committee will meet at the George Washington University for a planning session on fiscal year 1977 operations, priority issues, and objectives and responsibilities. Agenda items are subject to change as priorities dictate. Attendance by the public will be limited to space available.

Substantive program information may be obtained from the contact person listed above.

Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of the meeting and a roster of the committee members. Mr. Helsing is located in Room 16–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301–443–3783.

Dated: August 24, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-25290 Filed 8-27-76;8:45 am]

MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the Minority Group Mental Health Programs Review Committee.

Authority for this committee will expire August 27, 1978, unless the Secretary formally determines that continuance is in the public interest .

Dated: August 24, 1976.

FRANCIS N. WALDROP,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-25291 Filed 8-27-76;8:45 am]

Public Health Service

FEASIBILITY OF CERTIFYING COMPONENT PARTS FOR SELF-CONTAINED BREATHING APPARATUS

Public Meeting

The Secretary of the Interior, through the Mining Enforcement and Safety Administration (MESA) and the Secretary of Health, Education, and Welfare, through the National Institute for Occupational Safety and Health (NIOSH) conduct a testing and approval program for respirators used in hazardous atmospheres pursuant to regulations contained in 30 CFR Part 11 issued jointly by the Secretaries (37 FR 6244).

Section 11.30(a) of Part 11 states that "MESA and the Institute shall issue certificates of approval pursuant to the provisions of this subpart only for individual, completely assembled respirators which have been examined, inspected, and tested, and which meet the minimum requirements set forth in Subparts H through M of this part, as applicable." In accordance with this requirement, MESA and NIOSH have issued approvals only for complete respirators.

The National Institute for Occupational Safety and Health has received a request from The All-Gas and Equipment Company of Hartford, Connecticut, which desires to obtain approvals on replacement gas container (cylinder) and valve assemblies for use with approved self-contained breathing apparatus. The Institute has investigated this possibility and concluded that from

an engineering standpoint, it may be feasible to use separate cylinder and valve assemblies manufactured by one company with approved self-contained breathing apparatus manufactured by another company. In such a case, component approval might be issued to one applicant, for example, for a cylinder and valve assembly that is identical in shape, size, material, and performance with the cylinder and valve assembly provided by another applicant as part of a complete approved apparatus. Each applicant would be subject to the same quality assurance requirements for construction and assembly of cylinder and valve assembly. However, there may be objections or legitimate reasons why certification of cylinder and valve assemblies for self-contained breathing apparatus should not be permitted under Subpart H of 30 CFR Part 11.

Notice is hereby given that NIOSH and MESA will hold a public meeting to obtain information and views on engineering feasibility, benefits, legalities, and liabilities associated with the intermixing of cylinder and valve assemblies or of other parts or components from different manufacturers. The meeting will be held on October 22, 1976, beginning at 9:30 a.m. in Conference Room E (3rd Floor) of the Department of Health, Education, and Welfare's Parklawn Building, 5600 Fishers Lane, Rockville, Maryland.

Interested persons who wish to present pertinent oral comments at the meeting, should write to the Deputy Director, NIOSH, 5600 Fishers Lane, (Park Bldg. Rm. 3–32), Rockville, Md. 208582, not later than 14 days before the meeting, advising of the approximate time needed to present such comments. For those persons who cannot participate in the meeting, written comments may be submitted to the Deputy Director at the foregoing address. A verbatim transcript of the proceedings will be maintained and all written statements and data received by October 29, will be made part of the record.

All material received into the record will be reviewed and either a notice of proposed rulemaking to amend § 11.30 (a) and Subpart H of 30 CFR Part 11 to permit certification of component parts, or a notice setting forth the reasons why such an amendment is not feasible, will be published in the FEDERAL REGISTER.

Dated: August 23, 1976.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.76-25289 Filed 8-27-76;8:45 am]

Food and Drug Administration

[Docket No. 76C-0033]

FD&C RED NO. 2

Postponement of Hearing

The hearing on the denial of the petition for permanent listing of FD&C Red No. 2, formerly scheduled for September 13, 1976, as published in the FEDERAL REGISTER of July 20, 1976 (41 FR 29897), has been postponed. A new date for the hearing will be set at the continued prehearing conference presently scheduled to convene at 10 a.m. on September 13, 1976 in the Hearing Room, Rm. 4A–35, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20852.

Dated: August 26, 1976.

DANIEL J. DAVIDSON,
Administrative Law Judge.

[FR. Doc.76-25519 Filed 8-27-76;10:59 am]

Social Security Administration

PHYSICAL THERAPY SERVICES UNDER THE HEALTH INSURANCE PROGRAM

Schedule of Guidelines

Notice is hereby given of a revision in the effective date of the updated schedule of guidelines for evaluating the costs of physical therapy services furnished under arrangements in the Medicare program. As authorized in Part 405, Chapter III of Title 20 of the Code of Federal Regulations, § 405.432(b), the revised schedule was established by the Commissioner of Social Security, and published in the FEDERAL REGISTER on February 19, 1976 (41 FR 7542).

The updated schedule for physical therapy services will be effective for services performed on or after April 1, 1976, without regard to the beginning dates of providers' cost reporting periods (rather than for provider cost reporting periods beginning on or after April 1, 1976), and will remain in effect until the effective date of any revised schedule that may be published. Providers with cost reporting periods that straddle the periods covered by the schedules will utilize both the guideline schedules. For example, for a provider in Maryland, regardless of the beginning date of its costs reporting period, the services performed before April 1, 1976, will be evaluated at the adjusted hourly salary equivalency amount of $9.80 and the services performed on or after April 1, 1976, will be evaluated at the hourly salary equivalency amount of $10.80.

The adjusted hourly salary equivalency amounts and the standard travel allowances in the updated schedule published in the FEDERAL REGISTER on February 19, 1976, remain unchanged, but are republished for reference.

This revision, establishing a uniform effective date, will avoid inequities both to physical therapists and providers that might have occurred had different rates been applied to providers in an area solely on the basis of the beginning dates of such providers' cost reporting periods. Thus, all providers will have the benefit of the higher limits at the same time.

3

Schedule of Guidelines for Physical Therapy Services Furnished Under Arrangements

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Qualified Physical Therapists (Full Time, Regular Part Time, or Home Visits)

Effective for Services Furnished on or After April 1, 1976

(This schedule is not to be used for physical therapy assistants or aides.)

	Adjusted Hourly Salary Equivalency Amount	Standard Travel Allowance
ALABAMA	$ 9.90	$ 4.95
ALASKA[1]	13.20	6.60
ARIZONA	10.50	5.25
ARKANSAS	8.40	4.20
CALIFORNIA	10.50	5.25
COLORADO	8.40	4.20
CONNECTICUT	9.20	4.60
DELAWARE	10.70	5.35
DISTRICT OF COLUMBIA	9.80	4.90
FLORIDA	10.10	5.05
GEORGIA	9.80	4.90
HAWAII[2]	11.90	5.95
IDAHO	9.00	4.50
ILLINOIS	9.80	4.90
INDIANA	10.10	5.05
IOWA	9.30	4.65

[1] Adjusted for 25 percent salary differential.

[2] Adjusted for 15 percent salary differential.

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	Adjusted Hourly Salary Equivalency Amount	Standard Travel Allowance
KANSAS	$ 9.30	$ 4.65
KENTUCKY	10.40	5.20
LOUISIANA	8.40	4.20
MAINE	9.20	4.60
MARYLAND	10.80	5.40
MASSACHUSETTS	9.20	4.60
MICHIGAN	10.40	5.20
MINNESOTA	9.30	4.65
MISSISSIPPI	9.90	4.95
MISSOURI	9.30	4.65
MONTANA	8.40	4.20
NEBRASKA	9.30	4.65
NEVADA	10.50	5.25
NEW HAMPSHIRE	9.20	4.60
NEW JERSEY	10.70	5.35
NEW MEXICO	8.40	4.20
NEW YORK	10.80	5.40
NORTH CAROLINA	10.40	5.20
NORTH DAKOTA	8.40	4.20
OHIO	10.10	5.05
OKLAHOMA	8.40	4.20
OREGON	9.30	4.65
PENNSYLVANIA	10.20	5.10

	Adjusted Hourly Salary Equivalency Amount	Standard Travel Allowance
RHODE ISLAND	$ 9.20	$ 4.60
SOUTH CAROLINA	9.90	4.95
SOUTH DAKOTA	8.40	4.20
TENNESSEE	10.40	5.20
TEXAS	8.40	4.20
UTAH	8.40	4.20
VERMONT	9.20	4.60
VIRGINIA	10.40	5.20
WASHINGTON	8.70	4.35
WEST VIRGINIA	10.40	5.20
WISCONSIN	9.80	4.90
WYOMING	8.40	4.20

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 302, as amended, 79 Stat. 313, as amended, 79 Stat. 331 (42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v)(5), 1395hh), sec. 17(a), Pub. L. 93-233, 87 Stat. 967.)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged-Hospital Insurance, and 13.801, Health Insurance for the Aged-Supplementary Medical Insurance.)

Dated: August 20, 1976.

JAROLD KIEFFER,
Acting Commissioner of Social Security.

[FR Doc.76-25216 Filed 8-27-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-010 FH; CGD 76-011 FH]

LOOP, INC. AND SEADOCK, INC.

Deepwater Port License Applications; Final Public Hearing

Notice is hereby given that a final public hearing under section 5 (g) and (i) of the Deepwater Port Act of 1974 (the Act) (33 U.S.C. 1504 (g) and (i) will be held beginning at 9:00 a.m. on Tuesday, September 21, 1976 in Room 2232, 400 Seventh Street, SW, Washington, D.C. 20590. The hearing will be informal and conducted jointly by the U.S. Coast Guard and the U.S. Department of Transportation, Office of Deepwater Ports.

The purpose of this hearing is to provide an opportunity for all interested parties to submit views not heretofore presented concerning the issuance or denial by the Secretary of Transportation of deepwater port licenses which would authorize the ownership, construction and operation of the LOOP, Inc., and Seadock, Inc. projects in the Gulf of Mexico, off the coasts of Louisiana and Texas, respectively.

The LOOP, Inc. and Seadock, Inc. deepwater port license applications have been the subject of draft environmental impact statements (EIS's) made available for public comment in April 1976 and general public hearings conducted in May 1976 in the States of Louisiana and Texas. Both license applications, including supporting materials, the draft EIS's and comments thereon, the transcripts of previous hearings, and other documents of the license application processes are available for public inspection during normal business hours in room 6125 at Coast Guard Headquarters, 400 Seventh Street, SW, Washington, D.C. 20590.

The final phase of the deepwater port license application process commences with this public hearing. Section 5(g) of the Act requires all public hearings on all applications for any designated application to be concluded not later than 240 days after notice of the initial application has been published in the FEDERAL REGISTER. Notices of the filing of both the LOOP, Inc. and Seadock, Inc. deepwater port license applications, the availability thereof for public inspection and the designation of the respective application areas, appeared in the FEDERAL REGISTER of January 26, 1976 (41 FR 3768-69). All public hearings in these license application processes must therefore be concluded by September 22, 1976.

Federal agencies and States having duties and responsibilities under the Act have a period of 45 days from the date of the final public hearing announced heerin, or until November 5, 1976, to submit their final recommendations, including recommended license conditions, as appropriate, to the Coast Guard application staff, Commandant (G-WDWP/61), 400 Seventh Street, SW., Washington, D.C. 20590. The Secretary of Transportation will thereafter approve or deny within 45 days, or by December 20, 1976, the license applications under consideration.

Any person desiring to appear and be heard at this public hearing may do so. However, only new information and material directly relevant to the issuance or denial of the deepwater port licenses and other related Federal authorizations is desired. Information and comments concerning either or both deepwater port proposals previously submitted in response to earlier notices, public hearings, and the EIS's should not be duplicated at this proceeding.

Interested persons may submit briefs and make oral arguments relevant to the subject matter of this hearing at a time determined by the Presiding Officer during the hearing. Time limitations, if necessary, may be imposed by the Presiding Officer on those making presentations, within his sole discretion, at any time during the hearing. The order of speakers at this hearing will generally be a random order, based upon registration cards filled out at the door immediately prior to the beginning of the hearing.

A transcript will be made of the hearing. This record will be available for examination by interested persons, during normal business hours, at the address listed in the fifth paragraph of this notice.

(88 Stat. 2134 (33 U.S.C. 1504(g)); (49 CFR 1.46)

Dated: August 25, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-25346 Filed 8-27-76;8:45 am]

[CGD 76-011 PIN]

PORT OF GALVESTON COMPARATIVE DETERMINATION UNDER THE DEEPWATER PORT ACT OF 1974

Information Regarding Status

Notice is hereby given that the U.S. Coast Guard Deepwater Ports Application Staff, Commandant (G-WDWP/61), U.S. Coast Guard, 400 Seventh Street SW., Washington, D.C. 20590, has prepared an examination of the request submitted by Galveston Wharves, Inc., on behalf of the Port of Galveston, Texas, under § 148.216 of Title 33, Code of Federal Regulations, for a comparative determination under section 4(d) of the Deepwater Port Act of 1974 (the Act) (33 U.S.C. 1504(d)), in respect of the deepwater port license application filed by Seadock, Inc. (41 FR 3769). The purpose of this notice is to advise all interested persons of the 4(d) examination, its relation to the forthcoming decision of the Secretary of Transportation on the Seadock, Inc. deepwater port license application and the availability

thereof for public inspection and comment.

Section 4(d) of the Act directs the Secretary of Transportation, before issuing a license for a deepwater port under the Act, upon appropriate application, to examine and compare the economic, social, and environmental effects of the construction and operation of a proposed offshore deepwater port with the similar effects of the construction, expansion, deepening and operation, pursuant to plans for a deep draft channel and harbor, of a port of the State which will be directly connected by pipeline with the proposed deepwater port, and to determine which project best serves the national interest or that both developments are warranted. The Secretary has delegated to the Commandant, U.S. Coast Guard, the responsibility for undertaking the required examination and comparison.

The Coast Guard's findings concerning the economic social and environmental effects of the construction and operation of the proposed Seadock, Inc. deepwater port project as compared with the construction, expansion, deepening and operation of the Port of Galveston are contained in a study, entitled "Section 4(d) Examination, Port of Galveston/Seadock, Inc." Conclusions and recommendations respecting which project best serves the national interest, or that both developments are warranted, will be derived from this study and provide the basis for the determination that must be made prior to the Secretary's decision on the Seadock, Inc. deepwater port license application. It is expected that the license decision will be reached by mid-December 1976 and the Secretary's determination with respect to the Galveston project will be made in concert with the license decision.

The application staff report of the 4(d) examination discussed herein has been provided to the principals involved and will be available about September 1, 1976 to all other interested persons for public inspection during normal business hours, in Room 6125, at the address listed in the first paragraph of this notice. Interested persons may, after review of the study, consult with, or submit comments to, the application staff.

(5 U.S.C. 552)

Dated: August 25, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-25347 Filed 8-27-76;8:45 am]

Federal Aviation Administration

BOSTON AIR TRAFFIC CONTROL ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the Boston Air Traffic Control Advisory Committee. This committee was sponsored by the Air Traffic Division of the Federal Aviation Administration's (FAA's) New England Region, to provide a forum for discussion and solution of air traffic control service problems involving representatives of the military services, FAA and civil users of the air traffic control system. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C. on July 26, 1976.

E. NOOTENBOOM,
Acting FAA Committee Management Officer.

[FR Doc.76-25271 Filed 8-27-76;8:45 am]

ALASKAN REGION AIR TRAFFIC CONTROL ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the Alaskan Region Air Traffic Control Advisory Committee. This committee was sponsored by the Air Traffic Division of the Federal Aviation Administration's (FAA's) Alaskan Region, to provide a forum for discussion and solution of air traffic control service problems involving representatives of the military services, FAA and civil users of the air traffic control system. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C. on July 26, 1976.

E. NOOTENBOOM,
Acting FAA Committee Management Officer.

[FR Doc.76-25272 Filed 8-27-76;8:45 am]

GENERAL AVIATION ACCIDENT PREVENTION ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the General Aviation Accident Prevention Advisory Committee. This committee was sponsored by the Flight Standards Service of the Federal Aviation Administration (FAA) to assist in the effort to reduce the general aviation accident rate by providing FAA with advice and recommendations reflecting the knowledge and views of all levels of the general aviation community. The Secretary of Transportation has determined that continuation of this committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C. on July 26, 1976.

E. NOOTENBOOM,
Acting FAA Committee Management Officer.

[FR Doc.76-25273 Filed 8-27-76;8:45 am]

MICROWAVE LANDING SYSTEM ADVISORY COMMITTEE

Renewal

Notice is hereby given that the Microwave Landing System Advisory Committee is being renewed. The Systems Research and Development Service is the sponsor of the Committee, which consists of a group of 21 experts on the design and use of microwave landing systems. The Committee reviews the developmental efforts which are underway and advises the Director, Systems Research and Development Service, regarding the feasibility of such activities; keeps informed of the operational needs of the users; recommends Government and industry studies, tests, and simulations to verify the system capability for satisfying the operational needs of the users; and provides advice and ideas on, or methods to achieve solutions to, technical problems and concept choices.

The Secretary of Transportation has determined that the formation and use of the Microwave Landing System Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Meetings of the Committee will be open to the public.

Issued in Washington, D.C. on August 16, 1976.

GENE JENSEN,
Executive Director, Microwave Landing System Advisory Committee.

[FR Doc.76-25274 Filed 8-27-76;8:45 am]

OBSTACLE CLEARANCE REQUIREMENTS ADVISORY COMMITTEE FOR THE UNITED STATES

Renewal

Notice is hereby given that the Obstacle Clearance Requirements Advisory Committee for the United States is being renewed. The Flight Standards Service is the sponsor of the Committee which consists of a group of 14 experts on obstacle clearance requirements. The Committee develops information and data in support of proposals to be submitted by the United States to the ICAO Obstacle Clearance Panel for consideration and/or for positions to be taken by the United States with regard to proposed international standards and requirements for prevention of the erection or for the removal of obstacles to air navigation. The Committee's activity is limited to those obstacle clearance matters which have international implications.

The Secretary of Transportation has determined that the formation and use of the Obstacle Clearance Requirements Committee for the United States are necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Meetings of the Committee will be open to the public.

Issued in Washington, D.C. on August 10, 1976.

GERALD E. GIBSON,
Chairman, Obstacle Clearance Requirements Advisory Committee for the United States.

[FR Doc.76-25275 Filed 8-27-76;8:45 am]

HIGH ALTITUDE POLLUTION PROGRAM TECHNICAL ADVISORY COMMITTEE

Establishment

Notice is hereby given of the establishment of the High Altitude Pollution Program Technical Advisory Committee. The Federal Aviation Administration (FAA) is the sponsor of the committee, and the membership includes foreign and domestic representatives from industry, universities, and governmental agencies. The committee will provide FAA with independent expert advice on the nature and direction of its technical efforts related to the conduct of its High Altitude Pollution Program.

The Secretary of Transportation has determined that the formation and use of the Technical Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the committee will be open to the public.

Issued in Washington, D.C. on August 16, 1976.

F. A. MEISTER,
Associate Administrator for Policy Development and Review (Acting).

[FR Doc.76-25276 Filed 8-27-76;8:45 am]

Office of the Secretary

CONSTRUCTION OF I-66 BETWEEN CAPITAL BELTWAY (I-495) AND ROSSLYN, VIRGINIA

Public Hearing

As the Secretary of Transportation, I will be deciding whether an application for a Federal grant should be approved for construction of Interstate Highway 66 between the Capital Beltway (Interstate Highway 495) and Rosslyn, Virginia. The current proposal represents a revision from an earlier proposal which I rejected on August 1, 1975.

The earlier proposal, jointly submitted by the Virginia Department of Highways and Transportation (VDHT) and the Federal Highway Administration of this Department, was for six highway lanes, with truck traffic excluded, and with the Metro line to Vienna running along part of the median of the proposed highway. In rejecting that proposal, I stated:

> This decision is without prejudice to any further consideration on the part of the VDHT of the need for a non-Interstate commuter highway in the I-66 corridor if, after consultation with appropriate metropolitan authorities, the state finds it in the best interest of the metropolitan area to build a highway in the corridor, and if the proposal meets all the appropriate legal tests.[1]

[1] "The Secretary of Transportation's Decision on Whether the Department of Transportation Should Approve the Construction of Interstate Route 66 in Arlington and Fairfax Counties, Virginia", August 1, 1975, p. 15.

The proposal which is the subject of this public hearing has now been submitted to me for my consideration.

The proposal is set forth in "Proposed Four Lane Multi-Modal Concept, Final Supplemental Environmental/Section 4(f) Statement", which has been prepared jointly by the VDHT and the Federal Highway Administration. A limited number of copies of the statement are available and can be obtained by citizen groups, businesses and governmental bodies potentially affected by the decision. Copies may be obtained by writing to:

Office of Public Affairs (S-80), U.S. Department of Transportation, Washington, D.C. 20590.

Copies of the statement will also be available for review at the following locations:

Arlington County Public Library: Central Library and Shirlington, Westover and Cherrydale Branches.
Fairfax County Public Library: Main Library, Virginia Room, and Thomas Jefferson Branch Library.
Department af Transportation, Visitor Information Center (Room PL 413), 400 Seventh Street SW., Washington, D.C. (8:30 a.m. to 5:00 p.m.).
Federal Highway Administration, 1000 North Glebe Road, Arlington, Virginia (7:45 a.m. to 4:15 p.m.).
Fairbanks Highway Research Station, 6300 Georgetown Pike, McLean, Virginia (7:45 a.m. to 4:15 p.m.).
Federal Aviation Administration, 900 S. Washington Street (Room 200), Falls Church, Virginia (8:00 a.m. to 4:30 p.m.).

In light of the considerable interest and controversy which has surrounded the issue of construction of I-66, and the fact that I personally conducted a public hearing on the matter when it was previously presented to me and issued a decision on it, I shall now conduct a public hearing on the new proposal. Interested elected public officials and representatives of civic organizations will be permitted to express their views. The hearing will be conducted in a manner comparable to a Congressional hearing. It will be held on Saturday, October 2, 1976, at the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C. I chose Saturday as that day ought to provide the opportunity for greatest public participation without undue inconvenience. The agenda will be:

9:30 a.m.-10:30 a.m.
Elected public officials favoring construction
10:30 a.m.-11:30 a.m.
Elected public officials opposed to construction
1:00 p.m.-2:00 p.m.
Representatives of civic groups favoring construction
2:00 p.m.-3:00 p.m.
Representatives of civic groups opposed to construction

Participants will be permitted a maximum of 10 minutes for each presentation. Those of the same point of view are urged to combine their presentations. Written copies of presentations will be helpful, but are not required. Additionally, written presentations by any interested persons, including those who may not have sufficient time to express their full views at the hearing, may be submitted directly to me (address Secretary of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, and indicate "I-66 Presentation" on envelope), to be received no later than October 15, 1976.

Any elected public official or representative of a civic, public interest, or industry group desiring to participate at the hearing should write to: Secretary of Transportation (I-66 Hearing), 400 Seventh Street, SW., Washington, D.C. 20590 (telephone 426-4357), to be received no later than September 15, giving the following information:

1. Name.
2. Address.
3. Phone number during normal working hours.
4. Capacity in which presentation will be made (i.e., public official or civic, public interest, or industry group representative, with name of group represented).
5. Position—pro or con.
6. Time (maximum 10 minutes) desired for presentation.

A schedule will be prepared listing the participants in the order in which their presentations will be made. If more requests to testify are made than the time allotted will permit, we will attempt to obtain prior agreement on time allotments, or will allot time through the drawing of names by lot. The public and the press are invited to the hearing. The hearing will be transcribed electronically. The transcription and all written submissions will become a part of the record in this proceeding.

The holding of this hearing is not a precedent for the way in which I will handle similar matters in the future.

Issued in Washington, D.C., August 27, 1976.

WILLIAM T. COLEMAN, JR.,
Secretary of Transportation.

[FR Doc.76-25500 Filed 8-27-76;10:07 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27936; Order 76-8-129]

DELTA AIR LINES, INC.

Order Regarding Certificate of Public Convenience and Necessity; Amendment

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of August 1976.

On June 11, 1975, Delta Air Lines filed an application, pursuant to Subpart N of Part 302 of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for Route 8 so as to permit it to provide nonstop service between Memphis, Tennessee, and Tampa, Florida.[1]

[1] Eastern Air Lines filed a request for dismissal. Trans World Airlines filed an answer stating that it does not object to the grant of Memphis-Tampa authority but requests the imposition of restrictions in beyond-area markets. Broward County's Florida, Tampa, and Memphis filed answers in support of Delta's application.

By Order 75–9–95, September 25, 1975, the Board set Delta's application for further proceedings in accordance with Subpart N expedited procedures. Subsequently, the Board directed Delta to file additional information in support of its application (i.e., estimate of self-diversion and net financial impact and an environmental evaluation).[2] Delta submitted the requested information in the form of separate fiscal 1977 estimates of (1) on-segment results,[3] (2) total system impact of the proposal before self-diversion, and (3) the offsetting (negative) impact of self-diversion.[4]

For purposes of presenting the net results of the data submitted by Delta, we have combined its estimates in a profit and loss statement which is attached as an appendix[5] to this order. As can be seen, Delta projects an operating loss of $1.6 million on net added revenues of $2.8 million, after self-diversion. Concerning this loss, Delta states that the self-diversion represents a load-factor decrease of only four points on the Memphis-Atlanta segment and three points on the Atlanta-Tampa segment, and that these segments would remain profitable. However, no detailed analysis is furnished to substantiate the conclusion of profitability. Delta repeats its argument that (1) the Memphis-Tampa market is large enough to support nonstop service, (2) Delta is willing to provide the service, (3) Delta currently carries virtually all of the Memphis-Tampa passengers, (4) the new routing would contribute to a more efficient air transportation system, and (5) no other carriers would be adversely affected.

Answers in opposition to Delta's submission were filed by Eastern and TWA. Eastern objects to Delta's receiving improved authority in the St. Louis-Tampa market and states that Delta cannot show a profit for the proposed operation when self-diversion is considered. TWA alleges that, during the twelve months ended April 1976, its one-stop Kansas City-Tampa services incurred fully allocated losses in excess of $212,000 and its St. Louis-Tampa segment had a fully allocated loss of $417,00. TWA estimates that Delta would divert $366,000 in gross revenue from it and states that Delta should be two-stop restricted in the Tampa-Kansas City/St. Louis markets.

Upon consideration of the pleadings and of all relevant facts, we have determined that there is a sufficient basis for setting Delta's application for hearing under Subpart N. However, it is clear that the carrier's economic submission does not realistically reflect the service modifications that would have to occur if its application were granted and it were to integrate the new route into its system on a profitable basis. If Delta is to offer the level of service that it proposes[6] for a market of Memphis-Tampa's size,[7] it will surely make offsetting adjustments elsewhere.[8] We believe that the administrative law judge, the parties, and the Board are entitled to a record which fully reflects an applicant's scheduling plans. This is especially true in the case of an expedited Subpart N proceeding. Therefore, while Delta's application is being set down for hearing, it will not be noticed until Delta submits an analysis of all actual service adjustments which it would make if it were awarded Memphis-Tampa nonstop authority and until interested parties have had a chance to respond.[9]

All information should be filed with the Board and served upon all parties within 30 days from the date of adoption of this order. Answers will be due 15 days thereafter.

Finally, we will deny TWA's request for pretrial restrictions in the Tampa-Kansas City/St. Louis markets. The imposition of such restrictions would limit the Board's flexibility to impose only those restrictions which are found necessary on the basis of an evidentiary record. Moreover, there appears to be no compelling reason here why ordinary beyond-segment rights should be excluded in advance. If there is, in fact, a need for such restrictions, it can be shown at the hearing and the Board will be free to impose them.

Accordingly, it is ordered, That:

1. Delta Air Lines, Inc., be and it hereby is directed to file additional information as set forth in this order within 30 days of the date of adoption of this order. Answers thereto will be due 15 days thereafter;

2. The application of Delta Air Lines, in Docket 27936, be and it hereby is set for hearing before an administrative law judge of the Board at a time and place hereafter disignated, but will not be noticed for hearing until Delta has filed the information ordered by paragraph 1 above and until interested parties have had the opportunity to file answers thereto; and

3. The request of Trans World Airlines, Inc., for pretrial restrictions be and it hereby is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–25339 Filed 8–27–76;8:45 am]

[Docket No. 28194]

EASTERN AIR LINES, INC.-PIEDMONT AVIATION, INC.

Notice of Reassignment of Proceeding Regarding Route Exchange Agreement

This proceeding has been reassigned from Administrative Law Judge Arthur S. Present to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., August 24, 1976.

ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76–25340 Filed 8–27–76;8:45 am]

[Docket No. 21162]

OHIO/INDIANA POINTS NONSTOP SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on September 30, 1976 at 10:00 a.m. (local time) at the Marriott Inn, 2124 South Hamilton Road, Columbus, Ohio. At the conclusion of the hearing in Columbus, the hearing will be recessed until October 5, 1976 at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C.

The civic parties will be heard in alphabetical order in Columbus. The remainder of the parties will be heard in Washington, D.C.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served May 27, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 24 1976.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.76–25341 Filed 8–27–76;8:45 am]

[2] Order 76–5–23, May 7, 1976.

[3] A profit and loss statement strictly limited to revenues earned and expenses incurred on that portion of Delta's flights operated over the proposed new nonstop Memphis-Tampa segment.

[4] Delta presents self-diversion both on a projected participation and on a growth-offset basis. While the Board has utilized growth-offset as an alternative method of determining diversion from other carriers in route proceedings, the Board has not utilized growth-offset in computing self-diversion in the context of a forecast year profit and loss estimate. Accordingly, we have disregarded Delta's growth-offset self-diversion estimate.

[5] Filed as part of the original document.

[6] Two daily nonstop round trips with DC–9–30 equipment.

[7] In the year ended June 30, 1975, the Memphis-Tampa market generated 26,150 O&D plus interline connecting passengers or 36 passengers per day each way.

[8] For example, all of the Memphis-Tampa nonstop mileage represents new flying, and Delta has not made the necessary reductions in frequency or equipment gauge in the underlying Memphis-Atlanta and Atlanta-Tampa markets to offset the impact of self-diversion.

[9] In addition, Delta is requested to submit a profit and loss statement in the form set forth in the attached appendix.

[Docket No. 27114 etc.]

PAN AMERICAN WORLD AIRWAYS, INC. AND TRANS WORLD AIRLINES, INC. ROUTE AGREEMENT

Reassignment of Proceeding Regarding Route Agreement

This proceeding has been reassigned from the undersigned to Administrative Law Judge Arthur S. Present. Future communications should be addressed to Judge Present.

Dated at Washington, D.C., August 24, 1976.

ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-25342 Filed 8-27-76;8:45 am]

UNITED STATES-LATIN AMERICA ALL-CARGO SERVICE INVESTIGATION

[Docket No. 29295]

Postponment of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter now assigned to be held on September 14, 1976, (41 FR 24212, June 14, 1976) is hereby postponed to October 13, 1976 at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., August 24, 1976.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc.76-25343 Filed 8-27-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 608-5]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Receipt of Application for Equivalent Method Determination

Notice is hereby given that on August 3, 1976, the Environmental Protection Agency received an application from N. V. Philips' Gloeilampenfabrieken, to determine if its PW9771 ozone analyzer should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

Dated: August 24, 1976.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

[FR Doc.76-25371 Filed 8-27-76;8:45 am]

[FRL 608-1]

CITY OF JEROME WASTEWATER FACILITIES PROJECT

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the City of Jerome Wastewater Facilities Project, Jerome County, Idaho.

The proposed action is the awarding of grant funds to provide an adequate wastewater treatment and disposal program for the City of Jerome, Idaho, located near the Snake River in Jerome County, Idaho.

To receive additional public comments, the Environmental Protection Agency, Region X will hold an open public hearing on this DEIS on September 16, at 7:30 p.m. in the Jerome Junior High School Auditorium, Idaho. All interested persons are invited to express their views at these hearings. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on August 20, 1976. In accordance with CEQ's notice of availability, comments are due on October 4, 1976. Copies of the DEIS are available for review and comment from: Mr. Richard R. Thiel, Chief, Environmental Impact Section, M/S 443, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101 (telephone: 206-442-4011 or FTS 399-4011).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region X Library, 1200 Sixth Avenue, Seattle, Washington 98101.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.
Jerome Civic Club Memorial Library, 100 1st Avenue East, Jerome, Idaho.

Information copies of the DEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: August 23, 1976.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.76-25367 Filed 8-27-76;8:45 am]

[FRL 608-4]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL HEALTH ADVISORY COMMITTEE

Open Meeting

Pursuant to Public Law 92-463, notice is hereby given that a two-day meeting of the Environmental Health Advisory Committee of the Science Advisory Board will be held on September 16 and 17, 1976 in the Auditorium, Environmental Research Center, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. The meeting will start at 9:00 a.m. on September 16, 1976. The Environmental Research Center is located at the intersection of Highway N.C. 54 and T. W. Alexander Drive. The Auditorium is near the Visitors' Entrance.

The purpose of the meeting will be (1) to acquaint the members with the programs, facilities, and personnel of EPA's Health Effects Research Laboratory located at Research Triangle Park; (2) to hear and consider a report of the Ad Hoc Study Group on Toxic Substances Programs which reviewed certain health-related programs of the Agency's Office of Toxic Substances; and (3) to hear brief progress reports of the committee's Subcommittee on Epidemiologic Studies and Study Group on Mutagenicity Testing. The agenda will also include (4) brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. September 13, 1976. Please ask for Miss Mary Ann Igou or Mrs. Shirley Smith.

The telephone number is (703) 557-7720.

Dated: August 25, 1976.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

[FR Doc.76-25376 Filed 8-27-76;8:45 am]

[FRL 608-2]

OLENTANGY ENVIRONMENTAL CONTROL CENTER AND INTERCEPTOR SYSTEM

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Olentangy Environmental Control Center and Interceptor System, Delaware County, Ohio.

The proposed action is the construction of a sewage treatment plant of 1.5 MGD to be expanded to 3.0 MGD by the end of the 20-year planning period in South-Central Delaware County, Ohio, between State route 315 and the Olentangy River, immediately above the Delaware County-Franklin County line. The treatment process is a two-stage activated sludge facility, including phosphorus removal measures and tertiary rapid sand filters. The effluent will be ozonated prior to discharge. Sludge will be aerobically digested at the treatment site and then hauled to a State-approved sanitary landfill site. The facility will discharge to the adjacent Olentangy River, just above the county line.

This FEIS was transmitted to the Council on Environmental Quality (CEQ) on August 10, 1976 and in accordance with the provisions of the CEQ Guidelines (40 CFR 1500.11), no administrative action will be taken by this Agency until thirty days after receipt of the FEIS by the Council.

Copies of the FEIS are available for review and comment from: Mr. Gene Wojcik, Environmental Protection Agency, Region V, 12th Floor, 230 S. Dearborn Street, Chicago, Illinois 60604 (telephone 312–353–2157).

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region V, Library, 14th Floor, 230 S. Dearborn Street, Chicago, Illinois 60604.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Information copies of the FEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

Copies of the FEIS have been sent to various Federal, State, and local agencies, and interested individuals who made substantive comments on the draft EIS or requested a copy of the FEIS as outlined in the CEQ Guidelines.

Dated: August 23, 1976.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.76–25368 Filed 8–27–76;8:45 am]

[FRL 608–3]

SCIENCE ADVISORY BOARD, TECHNOLOGY ASSESSMENT AND POLLUTION CONTROL ADVISORY COMMITTEE

Open Meeting

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Technology Assessment and Pollution Control Advisory Committee of the Science Advisory Board will be held beginning at 8:30 a.m., September 13, 14, and 15, 1976, in the auditorium in the visitor's center, U.S. Environmental Protection Agency, Environmental Research Center, Research Triangle Park, North Carolina.

This meeting is a regularly scheduled meeting of the Committee. The purpose of the meeting is to brief the Committee on selected activities of the Industrial Environmental Research Laboratory at RTP, on the control technology activities of the Robert S. Kerr Environmental Research Laboratory, and the Athens, Georgia Environmental Research Laboratory; to discuss control technology concerns relevant to EPA regulatory programs in air and water quality; to discuss the relationships between R&D in control technology with other R&D in EPA laboratories; to brief the Committee on relevant activities of the Science Advisory Board; to discuss plans for assessing the quality of the R&D work related to pollution control technology; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or submit a paper should contact Lloyd T. Taylor, Executive Secretary, Technology Assessment and Pollution Control Advisory Committee, (703) 557–7720, by c.o.b. September 7, 1976.

Dated: August 25, 1976.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

[FR Doc.76–25369 Filed 8–27–76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of August 6 Through August 13, 1976

Notice is hereby given that during the week of August 6 through August 13, 1976, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

AUGUST 24, 1976.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Aug. 6 through Aug. 13, 1976*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 9, 1976	Brinkerhoff Drilling Co., Inc., Denver Colo. (If granted: Crude oil produced from the track lease, Tule Creek south field, Roosevelt County, Mont., would be sold at upper-tier ceiling prices.)	FEE–2847	Price exception (sec. 212.74)
Do	Cities Service Co., Tulsa, Okla. (If granted: Cities Service Corp. would be permitted to increase its prices for natural gas liquid products to reflect non-product cost increases in excess of $.005 per gal at its following natural gas plants: Adair, Bluitt, Bryans Mill, Chico, Citronelle, Crowley, Dollarhide, East Texas, Garrett, Halley, Lapeyrouse, Lefors, Lehman, May, Maysville, Mermentau, Myrtle Springs, North Cowden, North Rincon, Pampa, Price, Rio Grande City, Robstown, Rodman, St. Amelia, San Antonio Bay, Stonewall, Waco, and Wichita.)	FEE–2849 through FEE–2877	Price exception (sec. 212.165).
Do	Commonwealth Oil Refining Co., Inc., Washington, D.C. (If granted: The FEA's July 9, 1976 decision and order would be modified and the exception relief permitting CORCO to allocate the increased costs incurred as a result of a tax on imports levied by the Commonwealth of Puerto Rico on the prices of refined petroleum products sold in Puerto Rico would be made retroactive to Dec. 22, 1975.)	FEA–0020	Appeal of FEA decision and order in Commonwealth Oil Refining Co., Inc., 3 FEA par.——— (July 9, 1976).
Do	Moody, Elmer, Macomb, Mo. (If granted: Elmer Moody would be assigned a new, lower-priced supplier of motor gasoline to replace his base period supplier, Cabool Oil Co.)	FEE–2879	Exception to change supplier.
Do	Phillips Petroleum Co., Bartlesville, Okla. (If granted: Phillips Petroleum Co. would be permitted to transfer allocation entitlements among its company owned and operated service stations without regard to the 30 percent limitation provided in sec. 211.106(b)(3)(ii).)	FEE–2848	Allocation exception, sec. 211.106(b)(3)(ii).
Do	Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va. (If granted: The Wheeling-Pittsburgh Steel Corp. would be permitted to burn oil instead of coal in its Steubenville East plant boiler house.)	FEE–2846	Exception to part 215.3 (Note: Part 215 has been deleted from FEA regulations.)
Aug. 10, 1976	Consumers Fuel Co., Inc., Martinsburg, W. Va. (If granted: The FEA's June 23, 1976 remedial order would be rescinded and Consumers Fuel Co., Inc. would not be required to refund overcharges in its sales of heating oil.)	FEA–0021	Appeal of FEA remedial order dated June 23, 1976.
Do	M. J. Mitchell, Dallas, Tex. (If granted: Certain crude oil produced from the Pickrel Ranch Minnelusa Sand unit located in Campbell County, Wyo., would continue to be sold at prices above the lower tier ceiling price.)	FEE–2878	Extension of exception relief in M. J. Mitchell, 3 FEA par. 83, 146 (Apr. 2, 1976).
Do	Mobil Oil Corp., New York, N.Y. (If granted: The FEA's July 12, 1976 information request denial would be modified and Mobil Oil Corp. would receive access to those portions of the FEA Compliance Manual whose release was denied.)	FEA–0022	Appeal of FEA's information request denial.
Do	Texaco, Inc., Houston, Tex. (If granted: Texaco, Inc. would be permitted to increase its prices for natural gas liquid products to reflect non-product cost increases in excess of $.005 per gal at its following natural gas plants: Buckeye, Coalinga Nose, Garvin, Handy, Kettleman Hills, Luby, Lignite, Maurice, New Hope, Shiells Canyon, South Kermit, Van, and Wilson Creek.)	FEE–2880 through FEE–2892	Price exception (sec. 212.-165).
Aug. 11, 1976	Diamond Shamrock Corp., Amarillo, Tex. (If granted: Diamond Shamrock Corp. would be permitted to increase its prices for the natural gas liquid products produced at its McKee plant to reflect non-product cost increases in excess of $.005 per gal.)	FEE–2894	Extension of price relief in Diamond Shamrock Corp., 3 FEA par. 83,212 (June 7, 1976).
Do	Oilco Eastern, Gresham, Oreg. (If granted: Oilco Eastern, Inc. would be assigned a new, lower-priced supplier of motor gasoline to replace its base period supplier, Lion Oil Co.)	FEE–2893	Exception to change supplier.

Date	Name and location of applicant	Case No.	Type of submission
Aug. 12, 1976...	Cities Service Co., Tulsa, Okla. (If granted: Cities Service Co. would be permitted to increase its prices for natural gas liquid products to reflect non-product cost increases in excess of $.005 per gal at its following natural gas plants: Ambrose, Kimball, and Midway.)	FEE-2895 through FEE-2897	Price exception (sec. 212.-165).
Do.....	Exxon Co., U.S.A., Houston, Tex. (If granted: The FEA's July 21, 1976 remedial order would be rescinded and Exxon Co., U.S.A. would not be required to sell crude oil to Husky Oil Co. and Coastal States Gas Corp.)	FEA-0924	Appeal of the FEA's July 21, 1976 remedial order.
Do.....	Hays, Landsman & Head, New York, N.Y. (If granted: The FEA's July 12, 1976 information request denial would be modified and Hays, Landsman & Head would receive access to those portions of the FEA Compliance Manual whose release was denied.)	FEA-0923	Appeal of FEA's information request denial.
Aug. 13, 1976...	Gulf Oil Corp., Houston, Tex. (If granted: The FEA's July 12, 1976 revised remedial order would be rescinded and Gulf would not be required to make a refund for overcharges in its sales of No. 2 fuel oil to VEPCO.)	FEA-0925	Appeal of the FEA's revised remedial order.
Do.....	Loop, Paul R., Tulsa, Okla. (If granted: Crude oil produced from the Dicey McIntosh lease sec. 12 located in Okmulgee County, Okla., would be sold at upper-tier ceiling prices.	FEE-2898	Price exception (sec. 212.74).

[FR Doc.76-25160 Filed 8-24-76;12:15 pm]

EXCEPTION RELIEF UNDER DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Proposed Adjustments to 1975

During 1975, a number of small refiners received exception relief from the purchase requirements of the FEA Old Oil Entitlements Program (10 CFR 211.67). The exception relief which was approved was generally designed to alleviate the adverse impact of the Entitlements Program which would otherwise prevent a firm from achieving the lesser of its historic profit margin or historic return on invested capital during the four fiscal quarters corresponding most closely to the 1975 calendar year. See Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975). Since the conclusions reached as to the nature and extent of exception relief were necessarily based on financial projections which could differ significantly from the actual financial results which each firm achieved, the FEA stated that a subsequent review would be conducted at the completion of the calendar year. The FEA also stated that additional benefits would be provided if the firm's actual financial results indicated that it received an insufficient measure of exception relief in the past. Similarly, if the firm's actual financial results indicated that the projections upon which exception relief was approved were erroneous and that an excessive measure of relief had been approved in the past, the firm would be required to purchase entitlements to offset the excess benefit which had been conferred. The listing below sets forth the determination of the FEA based upon its review of the actual financial data which each firm provided as to whether the particular firm received excessive benefits from the exception relief extended and should therefore be required to purchase additional entitlements or whether the firm should be granted additional benefits.

As an initial step in making these determinations, the FEA reviewed the historical and 1975 financial data submitted by each firm to determine whether any adjustments were necessary. In all cases, the entitlement expense (or revenue) reported for 1975 was adjusted to take into account the recalculation of entitlement obligations made by the FEA Office of Regulatory Programs in order to correct for prior reporting errors. In some instances, the profit reported by a firm had to be adjusted to reflect a change in its method of inventory valuation or to eliminate the effect of a substantial increase in the salary paid to an owner or officer who had an equity interest in the firm. In addition, extraordinary items and items not related to a firm's refining and marketing operations were excluded from the financial results reported.

A calculation was then made of the dollar amount by which a firm exceeded its historical profit margin or, in the event that the firm did not achieve its historical profit margin, the difference between its allowable pre-tax profit (the firm's 1975 sales revenue multiplied by its historical profit margin) and the pre-tax profit actually earned in 1975. A similar computation was performed to determine whether the firm had exceeded its historical return on invested capital. In addition, since a firm's entitlement purchase or sales obligation arises prior to any income tax effect, the dollar difference between the firm's allowable return on invested capital and its actual 1975 return was converted to pre-tax dollars by assuming that the firm's marginal tax rate was 48 percent. The FEA also calculated the firm's net entitlement purchase or sales obligation in 1975 and computed the dollar value of the exception relief which had been granted to the firm, i.e., the dollar value of the entitlements which the firm was excused from purchasing during the year as a result of the award of exception relief.

The determination of the entitlement obligations and benefits specified below was made in the following manner. Those firms which exceeded their historical profit margin or historical return on invested capital in 1975 and which were net purchasers of entitlements during the year will be required to purchase entitlements equal in value to the lesser of:

(i) The dollar value of the exception relief which they received in 1975; or

(ii) The larger amount obtained when a calculation is made of the dollar value by which the firm exceeded its historical profit margin or return on invested capital.

In determining the additional obligation for those firms which exceeded their historical profit margin or historical return on invested capital in 1975 and which were net sellers of entitlements during the year, the FEA calculated the lesser of:

(i) The dollar value of the exception relief which they received in 1975; or

(ii) The larger amount obtained when a calculation is made of the dollar value by which the firm exceeded its historical profit margin or return on invested capital.

A further calculation was then made of the lesser of:

(i) The dollar value of the exception relief which they received in 1975; or

(ii) The net value of entitlements actually sold in 1975.

The value of the additional entitlements which a firm in this category will be required to purchase is equivalent to the greater of the dollar amounts arrived at through the two calculations.

Those firms which did not achieve either their historical profit margin or historical return on invested capital in 1975 and which were net sellers of entitlements will be required to purchase entitlements equal in value to the lesser of (i) the dollar value of the exception relief which they received in 1975, or (ii) the net value of entitlements sold in 1975. Firms which fall within this category are now being required to purchase entitlements because it was never the FEA's intention to permit a refiner to become a net seller of entitlements as a result of the approval of exception relief.

Finally, those firms which did not achieve either their historical profit margin or historical return on invested capital in 1975 and which were net purchasers of entitlements are being authorized to sell entitlements equal value to the lesser of (i) the dollar amount by which they were under their historical profit margin or historical return on invested capital whichever amount is smaller, (ii) the value of the exception relief which was denied, i.e., the dollar value of full exception relief for those months for which the firms requested relief on a prospective basis less the dollar value of the relief actually approved, or (iii) the net value of entitlements actually purchased in 1975.

A worksheet has been mailed to each firm listed below setting forth in detail the computation of its additional entitlement obligation or benefit for 1975.

Therefore, the Federal Energy Administration hereby gives notice of its intention to require the following firms to purchase entitlements in order to offset the excessive benefits which they received as a result of exception relief which was granted to them in 1975:

FIRMS RECEIVING EXCESSIVE ENTITLEMENTS RELIEF

Firm/Case No.:	*Entitlement obligation*
Beacon Oil Co., FEX-0059	$2,061,628
Delta Refining Co., FEX-0060	4,559,585
Edgington Oil Co., FEX-0061	1,021,372
Fletcher Oil & Refining Co., FEX-0062	578,336
Good Hope Industries, Inc., FEX-0063	21,981
Husky Oil Co. of Delaware, FEX-0064	5,270,560
Lunday-Thagard Oil Co., FEX-0065	221,377
Midland Cooperatives, Inc., FEX-0066	503,896
Mohawk Petroleum Corp., Inc., FEX-0067	245,602
Newhall Refining Co., FEX-0068	625,601
Pasco, Inc., FEX-0069	4,563,596
Powerine Oil Co., FEX-0070	638,000
Rock Island Refining Corp., FEX-0071	2,642,065
Southland Oil Co., FEX-0072	3,532,452
TOSCO Corp., FEX-0073	1,385,000
Warrior Asphalt Co. of Alabama, Inc., FEX-0074	156,051
West Coast Oil Co., FEX-0075	58,067
Young Refining Corp., FEX-0076	75,843

The FEA also intends to authorize the following firms to sell entitlements on the basis of the analysis set forth above which indicates that they did not receive a sufficient measure of exception relief in 1975:

FIRMS REQUIRING ADDITIONAL ENTITLEMENTS RELIEF

Firm/Case No.:	*Entitlement benefit*
Famariss Oil Corp., FEX-0077	$11,860
Laketon Asphalt Refining, Inc., FEX-0078	55,451
Navajo Refining Co., FEX-0079	697,881
North American Petroleum Corp., FEX-0080	532,965
OKC Corp., FEX-0081	546,643
San Joaquin Refining Corp., FEX-0082	361,059
Sound Refining, Inc., FEX-0083	24,916
Wickett Refining Co., FEX-0084	45,553

Since the following firms received full relief from the purchase requirements of the Entitlements Program for the months for which they sought exception relief and did not exceed either their historical profit margin or historical return on invested capital, the FEA is not requiring that any adjustment be made with respect to the exception relief previously granted these firms in 1975:

FIRMS WITH NO ADJUSTMENT TO ENTITLEMENTS RELIEF

NGL Supply, Inc. (C & H Refinery), Northland Oil & Refining Co.

The entitlement obligations and benefits specified above will become effective with the September 1976 Entitlement Notice which the FEA will issue in the month of November. Obligations and benefits which have a value less than $500,000 will be spread over a three month period; obligations and benefits which exceed $500,000 will be evenly distributed over a twelve month period.

This determination is proposed to be made pursuant to Subpart G of the FEA's procedural regulations. The Federal Energy Administration seeks comments with respect to this proposal. Specifically, the FEA seeks comments with respect to the appropriateness of (i) the FEA's proposed adjustment of 1975 expenses (or revenues) to take into account the recalculation of entitlements obligations made by the FEA Office of Regulatory Programs to correct for reporting errors (41 FR 31793 (July 29, 1976)); and (ii) the proposal that obligations and benefits which have a value of less than $500,000 be spread over a three month period and obligations and benefits which exceed $500,000 be spread over a twelve month period. In addition, any firm which believes that mathematical errors were made in the FEA's calculation of the amount of its additional obligation or benefit should specify the exact nature of those errors to the FEA.

Interested persons are invited to submit data, views, or arguments with respect to the subject of this notice to Executive Communications, Room 3309, Federal Energy Administration, Box IN, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to Executive Communications, FEA, with the designation "Corrections for 1975 Entitlement Exception Relief." Ten copies should be submitted. All comments received by September 27, 1976, and all relevant information will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Any person aggrieved by the FEA's final determination in this matter may file an appeal with the Office of Exceptions and Appeals in accordance with the provisions of 10 CFR, Part 205, Subpart H. A firm may also file an application for stay of the FEA's final determination in accordance with Subpart I. In addition, any firm may file an application for exception in accordance with Subpart D of Part 205.

Issued in Washington, D.C., on August 25, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-25317 Filed 8-27-76;8:45 am]

MARTIN OIL SERVICE, INC., ET AL.

Consent Order

I. INTRODUCTION

Pursuant to 10 CFR § 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which, on June 30, 1976, was executed between Martin Oil Service, Inc., Martin Oil of Indiana, Inc., Martin Oil Company of Texas, and Martin 4-Minute Auto Salon, Inc., (called collectively "Martin") and the FEA. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, the FEA may, after consideration of comments received, withdraw its acceptance of the Consent Order and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Martin Oil Service, Inc., and its named affiliates, is a firm engaged in the resale and retailing of petroleum products subject to FEA regulations. The home office of Martin Oil Service, Inc. is located at 4501 West 127th Street, Blue Island, Illinois 60658.

As a result of an audit conducted by FEA of Martin's pricing practices for the period of November 1, 1973 through August 31, 1974, FEA advised Martin that Martin had apparently sold motor gasoline through its retail outlets and to its wholesale purchasers at prices in excess of those permitted under the Cost of Living Council price rule in 6 CFR § 150.-359 and the FEA price rule in 10 CFR 212.93. FEA contended that those overcharges were the result of Martin's erroneous computations of inventory costs through its premature inclusion of anticipated product costs of certain exchange transactions.

In resolution of the issues raised by the audit results, the FEA and Martin executed a Consent Order on June 30, 1976, the significant terms of which provide that:

(1) Martin shall refund the amounts charged to its wholesale and retail purchasers of gasoline in excess of maximum lawful prices, together with appropriate interest. FEA has computed the total overcharge (excluding interest) at $1,620,104.00. The refund shall be accomplished by a reduction of approximately 1.6¢ per gallon from Martin's average sales price charged to each class of purchaser during the month of February through July 1975. Martin may currently add increased product costs to these average prices only in the proportion that increased product costs were actually recovered during the period of February through July 1975. Martin shall directly refund $359.09 plus interest to its wholesale purchaser-consumers of gasoline.

(2) The total reduction to all affected purchasers shall average not less than $90,000.00 per month and the total time for completing all reductions or refunds shall not exceed 24 months.

(3) Martin shall, for purposes of computing inventory costs, value the product received in exchange transactions at the average unit cost of product in inventory, and shall make cost adjustment to inventory only when incurred exchange costs are known with certainty.

(4) Martin shall notify its refund recipients that the price reductions and refunds are made pursuant to the Consent Order between Martin and FEA.

(5) Martin shall be given credit for any price reduction or refunds made subsequent to January 1, 1976 and prior

to the Consent Order provided Martin demonstrates that such action was taken in expectation of this Consent Order.

(6) The provisions of 10 CFR § 205.-197, including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. N. Allen Andersen, Regional Administrator, Region V, Federal Energy Administration, 175 West Jackson Boulevard, Chicago, Illinois 60604. Copies of this Consent Order may be received free of charge by written request to this same address or by calling (312) 353-8770.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Martin Consent Order." All comments received by 4:30 p.m. CDT, on or before the thirtieth calendar day following publication of this Notice will be considered by the FEA in evaluating the Consent Order.

Any information or data, which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR § 205.9(f).

Issued in Washington, D.C., August 25, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-25318 Filed 8-27-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 820]

APPLICATIONS ACCEPTED FOR FILING

Common Carrier Services Information

AUGUST 23, 1976.

By the Chief, Common Carrier Bureau:

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act), applications filed under Part 68, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

22643-CD-P-(2)-76, Advanced Radio Communications Company (KQZ755) Resubmitted, C.P. for additional facilities to operate on 454.200 and 454.350 MHz at a new site described as Loc. No. 4 to be located at Riggs Road and First Street, N.E., Washington, D.C.

22644-CD-P-(2)-76, Phillips County Telephone Company (KAQ609), C.P. to change antenna system operating on 152.60 MHz: additional to operate on 152.57 MHz to be located at 249 West Denver St., Holyoke, Colorado.

22645-CD-P-76, Radio Relay Corp.—New Jersey (KEC935), C.P. to change antenna system operating on 35.58 MHz. located at 204 Mountain Horeb Road, Warren Township, New Jersey.

22646-CD-P-76, The Offshore Telephone Company (KUO637), C.P. to relocated facilities operating on 35.62 MHz to be located at Block 309A, High Island, Gulf of Mexico.

22647-CD-P-76, John Rex Wayland d./b. as Live Oak Communications (KUD230), C.P. to change antenna system operating on 152.09 MHz. located 0.75 miles West, George West, Texas.

22648-CD-TC-76, Mountain View Telephone Company Consent to Transfer of Control from Glen Hinkle and Jennie Lou Hinkle, Transferor to Glen Hinkle et cetera, Transferee. Station: KWH314, Mountain View, Arkansas.

22649-CD-P-(2)-76, General Telephone Company of Illinois (KSJ822), C.P. for additional facilities to operate on 152.66 MHz to be located at 0.25 miles South of Olney, Illinois.

22650-CD-P-76, Otis L. Hale d./b. as Mobilfone Communications (New), C.P. for a new 1-way station to operate on 152.24 MHz to be located at Mount Nebo, 4.5 miles west of Dardenelle, Russellville, Arkansas.

22651-CD-P-76, T. D. Miller III (KRH660), C.P. for additional control facilities to operate on 454.350 MHz to be located 358 South Main Street, Burlington, North Carolina.

22652-CD-P-76, Statesboro Telephone Company (New), C.P. for a new 1-way station to operate on 152.84 MHz to be located 76 E Gray Street, Statesboro, Georgia.

22653-CD-MP-(3)-76, Southeast Mobilphone, Inc. (KCI308), C.P. to relocate, change antenna system, and replace transmitter operating on 454.025, 454.050, and 454.125 MHz to be located at View Park Drive, Knoxville, Tennessee.

22654-CD-P-P-76, Western California Telephone Company (KMM656), C.P. to relocate and change antenna system operating on 152.57 MHz to be located at Green Point, 3.3 miles East of Novato, California.

22655-CD-P-76, Mobilefone Northwest (KWT917), C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 2 to be located at Chelan Butte one mile south of Clelan, Washington.

22656-CD-P-76, James C. Wilson, d./b. as Message Central Telephone Answering Service (New), C.P. for a new station to operate on 454.225 MHz to be located at 815 Salinas Street, Laredo, Tex.

22657-CD-P-76, Southwestern Bell Telephone (New), C.P. for a new 1-way signaling station to operate on 152.84 MHz to be located at 1408 Broadway, Lubbock, Texas.

22658-CD-P-76, Westcol Radio Dispatch (KAD511), C.P. for additional facilities to operate on 152.21 MHz at Loc. No. 6 located 241 South 14th Street, Grand Junction, Colorado.

22662-CD-P-76, Airsignal International, Inc. (KMM703), C.P. to relocate facilities: 454.100 MHz (Base), 454.350 MHz Repeater to be located Mount Pluto, 6 miles SSE of Pluto, Truckee, at Loc. No. 1; 459.350 MHz (Control) at Loc. No. 2 to be located at 1014 Blue Lake Avenue, South Lake Tahoe, California.

22660-CD-P-76, Arnold E. Anderson (New), C.P. for a new station to operate on 152.06 MHz, base and 459.025 MHz, repeater to be located 2 miles west of Tenneyson on Lee Rranch, Tenneyson, Texas.

22663-CD-P-(2)-76, Airsignal International, Inc. (KWU278), C.P. to relocate facilities operating on 35.22 MHz, base to be located at Mount Pluto, 6 miles SSE of Pluto, Truckee, California, Loc. No. 1; and for additional facilities to operate on 72.76 MHz, control, to be located at a new site described as Loc. 2: 1014 Blue Lake Avenue, South Lake Tahoe, California.

22664-CD-P-76, Electronic Engineering Company (KAF242), C.P. for additional facilities to operate on 454.350 MHz to be located at a new site described as Loc. No. 3: 28th and Woodland Streets, Des Moines, Iowa.

22665-CD-P-76, James D. and Lawrence D. Garvey d.b.a. Radiofone (KUC975), C.P. to replace transmitter, change antenna system and relocate facilities operating on 454.150 MHz to be located 2 miles WNW of Tickfaw, Louisiana.

22666-CD-AL-76, Tel Car of Hollywood, Inc. Consent to Assignment of License from Tel-Car Hollywood, Inc., Assignor to Radiopaging, Inc., Transferee. Station: KUS 267, Hollywood, Florida.

22667-CD-AL-(4)-76, Vernon H. Johnson d.b.a. Grants Radiotelephone Service Consent to Assignment of License from Grants Radiotelephone Service, Assignor to Grants Radiotelephone Service, Inc., Assignee. Stations: KKT397, Grants, New Mexico; KUD201 and KUD202, Gallup, New Mexico; and KWU270, Milan, New Mexico.

22671-CD-P-76, H. Y. Robinson d.b.a. Robinson Enterprises (KUD221), C.P. to replace transmitter, change antenna systems and relocate facilities operating on 454.025 MHz to be located near Dogwood Lane and Boettcher Mill Road, Huntsville, Texas.

22673-C-P-76, Carlton L. Holland d.b.a. Mobaphone of New Mexico (KKM582), C.P. for additional facilities to operate on 152.212 MHz at Loc. No. 1; Sandia Mountain Crest, 9 miles NE of Albuquerque, New Mexico.

22674–CD–AL–76, Answerphone, Inc. Consent to Assignment of License from Answerphone, Inc., Assignor to Contact-Denver, Inc., assignee. Station: KFL930, Golden, Colorado.

22675–CD–AL–76, Airway Communications Consent to Assignment of License from Airway Communications, Assignor to Contact-Denver, Inc., Assignee. Station: KQZ796, Thornton, Colorado.

22676–CD–AL–76, Pagephone, Inc. Consent to Assignment of License from Pagephone, Inc., Assignor to Contact-Denver, Inc., Assignee. Station: KTS255, Golden, Colorado.

22661–CD–P–(4)–76, Imperial Communications Corp. (KMA262), C.P. for additional facilities to operate on 454.025, 454.225, 454.250, and 454.275 MHz. (Loc. No. 2) to be located at San Miguel Mountain, 13 miles E of San Diego, California.

22398–CD–MP–L–76, Mt. Shasta Radiotelephone, Inc. (KUS379), Modification of C.P. and License to change the frequencies of 72.02 and 72.22 MHz, Control station at KC Road, 0.25 mile east of Mount Shasta Boulevard, Mount Shasta, to 75.62 and 75.85 MHz respectively. Also change the frequencies of 75.62 MHz and 75.82 Repeater stations at Summit Gray Butte, 7.1 miles NE of Mount Shasta City, Mount Shasta, California to 72.02 and 72.62 MHz respectively.

CORRECTION

22573–CD–P–(2)–76, Lester B. Bibble, Jr. (New), C.P. to correct transmitter relocate to read 1100 Beck Ave., Panama City, Florida. All other particulars remain as reported on PN No. 818, dated August 9, 1976.

MAJOR AMENDMENT

22118–CD–P–(2)–76, Commercial Communications, Inc., Rock Spring, Wyoming (KUS-258), Amend Base frequencies 454.050 and 454.350 MHz to read 454.225 and 454.250 MHz. All other particulars are to remain the same as reported on PN No. 808 dated June 1, 1976.

INFORMATIVE

On July 27, 1976, The Commission adopted Docket 19905 (FCC 76–719). It was released August 10, 1976. Included in this Report and Order is revised Section 21.23. New section 21.23 is titled Amendment of Applications and more clearly defines "Major Amendment" as used in Part 21 of the Rules. New Section 21.27(c)(1) of Docket 19905 indicates new filed applications will also be considered major or minor pursuant to the provisions of Section 21.23, subjecting them to the Public Notice requirements of Section 21.27.

At present FCC Form 401 does not provide a convenient location to indicate whether an application should be considered major or minor pursuant to Section 21.23. Effective September 17, 1976 and until FCC Form 401 is revised, all applications to be considered minor and meeting, the requirements of Section 21.23 should include as part of exhibit No. 1 (The environmental statement) a request that the application be considered minor and not subject to the Public Notice requirements of Section 21.27 (a) and (b) of the Commission's Rules.

RURAL RADIO SERVICE

60443–CR–AL–76, Vernon H. Johnson, d.b.a. Grants Radiotelephone Service, Consent to Assignment of License from Grants Radiotelephone Service, Assignor to Grants Radiotelephone Service, Inc., Assignee. Station: KOA47, temporary-fixed.

60550–CR–P/L–(2)–76, RCA Alaska Communications, Inc. (New), C.P. for new Rural Subscribed Temporary Fixed station to operate on 77.2 MHz to be located Various Points Within The Territory of the Grantee.

6041–CR–P–76, The Offshore Telephone Company (WGI77), C.P. to relocate facilities to operating on 454.550 MHz to be located at Block 309A, High Island, Gulf of Mexico.

POINT TO POINT MICROWAVE RADIO SERVICE

4814–CF–P–76, The Pacific Telephone and Telegraph Company (KMA40), Hollywood, 1429 North Gower Street, Los Angeles, California. Lat. 34°05'49" N., Long. 118°-19'18" W. C.P. to increase tower height and add a point of communication on frequencies 5989.7H 6049.0H MHz toward Beverly Hills, California on azimuth 290.7 degrees.

4815–CF–P–76, Same (new), 2555 Briarcrest Road, Beverly Hills, California. Lat. 34°07'-08" N., Long. 118°23'29" W. C.P. for a new station on frequencies 6241.7V 6301.0V MHz toward Hollywood, California on azimuth 110.7 degrees.

4821–CF–P–76, The Chesapeake and Potomac Telephone Company of Virginia (KJG53), 120 West Bute Street, Norfolk, Virginia. Lat. 36°51'11" N., Long. 76°17'25" W. C.P. to add frequency 11325.0V MHz toward Newport News, Virginia; replace transmitter and increase power output on 11245.0V MHz toward Newport News.

4822–CF–P–76, Same (KJG52), 3305 Huntington Avenue, Newport News, Virginia. Lat. 36°59'01" N., Long. 76°25'57" W. C.P. to add frequency 10875.0V MHz toward Norfolk, Virginia; replace transmitter and increase power output on 10795.0V MHz toward Norfolk.

The following renewal applications for the term ending February 1, 1981, have been received:

MIDWESTERN RELAY COMPANY [1]

File No.	Call sign	Station name	State
7767–CF–R–76	KQ4621	Temporary fixed (mobile/TV pickup)	(IL, IA, MI, MN, WI)
7768–CF–R–76	WOE84	Temporary fixed	(IL, IA, MI, MN, WI)
7769–CF–R–76	WSL36	Allens Grove	WI
7770–CF–R–76	WSL37	Apple Valley	MN
7771–CF–R–76	WIV45	Arden Hills	MN
7772–CF–R–76	WKR90	Baraboo	WI
7773–CF–R–76	WOF73	Bremer	IA
7774–CF–R–76	WLJ43	Chicago No. 1	IL
7775–CF–R–76	WAH426	Chicago No. 2	IL
7776–CF–R–76	WSL23	Chippewa Falls	WI
7777–CF–R–76	WLJ45	Crystal Lake	IL
7778–CF–R–76	WKR95	Curran	WI
7779–CF–R–76	WKR92	Davis Corner	WI
7780–CF–R–76	WLJ51	De Pere	WI
7781–CF–R–76	WOF71	Dexter	MN
7782–CF–R–76	WOF72	Elma	IA
7783–CF–R–76	WKR91	Engle	WI
7784–CF–R–76	WPF44	Galesville	WI
7785–CF–R–76	WLJ44	Glendale Heights	IL
7786–CF–R–76	WLJ49	Graham Corner	WI
7787–CF–R–76	WKS99	Hancock	WI
7788–CF–R–76	WLJ68	Jefferson	WI
7789–CF–R–76	WKR93	Kendall	WI
7790–CF–R–76	WLJ46	Lake Geneva No. 1	WI
7791–CF–R–76	WAU220	Lake Geneva No. 2	WI
7792–CF–R–76	WLJ69	Madison	WI
7793–CF–R–76	WSL21	Marshfield	WI
7794–CF–R–76	WLJ52	Milwaukee	WI
7795–CF–R–76	WIV43	Minneapolis Foshay	MN
7796–CF–R–76	WKR96	Montana Ridge	WI
7797–CF–R–76	WSL22	Neillsville	WI
7798–CF–R–76	WLJ47	North Prairie	WI
7799–CF–R–76	WKR98	Oak Ridge	WI
7800–CF–R–76	WLJ55	Rib Mountain	WI
7801–CF–R–76	WKR99	Tiver Falls	WI
7802–CF–R–76	WOF70	Rochester	MN
7803–CF–R–76	WLJ48	Rubicon	WI
7804–CF–R–76	WKR94	Sparta	WI
7805–CF–R–76	WLJ54	Stevens Point	WI
7806–CF–R–76	WLJ50	Stockbridge	WI
7807–CF–R–76	WKR97	Wabasha	MN
7808–CF–R–76	WOP92	Wausau	WI
7809–CF–R–76	WLJ70	WHA Madison	WI
7810–CF–R–76	WLJ53	WMVS Madison	WI
7811–CF–R–76	WIV63	Duluth	MN
7812–CF–R–76	WIV61	Hinckley	MN
7813–CF–R–76	WIV62	Duquette	MN
7814–CF–R–76	WIV46	Isanti	MN

VIDEO SERVICE COMPANY [2]

7837–CF–R–76	KSO93	Wellsboro	IN
7838–CF–R–76	KSQ37	Attica	IN
7839–CF–R–76	KSQ36	Lafayette	IN
7840–CF–R–76	WQQ96	Kokomo	IN
7841–CF–R–76	WQQ98	Morristown	IN
7842–CF–R–76	WQQ97	Anderson	IN
7843–CF–R–76	KSP64	Monticello	IN
7844–CF–R–76	KVD52	Peru	IN
7845–CF–R–76	KSO94	Delong	IN
7846–CF–R–76	KSP68	Logansport	IN
7847–CF–R–76	SKO92	Scircleville	IN

MAINE MICROWAVE, INC. [3]

7859–CF–R–76	KCK58	Bear Mountain	ME

See footnotes at end of table.

File No.	Call sign	Station name	State
MAINE MICROWAVE, INC.—Continued			
7860-CF-R-76	KCK59	Quoggy Joe Mountain	ME
7861-CF-R-76	WPE76	Van Buren	ME
TELEPHONE UTILITIES SERVICES CORPORATION [4]			
7827-CF-R-76	KRW84	Nix	TX
7828-CF-R-76	KRW83	Belton	TX
7829-CF-R-76	KLV63	Jonesboro	TX
7830-CF-R-76	KLV64	Copperas Cove	TX
7831-CF-R-76	KLV65	Walnut Springs	TX
7832-CF-R-76	WIV72	Taylor	TX
WESTERN TELEVISION RELAY, INC.[5]			
7848-CF-R-76	KLF85	Weatherford	OK
7849-CF-R-76	KLT80	Elk City	OK
GRAYSON ENTERPRISES, INC.[6]			
7680-CF-R-76	KLV73	Amarillo	TX
7681-CF-R-76	KLV74	Canyon	TX
7682-CF-R-76	KLV75	Nazareth	TX
7683-CF-R-76	KLV76	Hart Camp	TX
7684-CF-R-76	KLV77	Whitharrel	TX

[2] Filed Jan. 1, 1976.
[3] Filed Jan. 27, 1976.
[4] Filed Dec. 29, 1976.
[5] Filed Jan. 22, 1976.
[6] Filed Jan. 5, 1976.

4813-CF-76, American Television & Communications, Corp. (WBB 218), Poor Mtn., 12 miles SSW of Salem, Virginia. (Lat. 37°11'-37" N. Long. 89°09'25" W.): Construction permit to add 10935.0H and 11095.0H MHz toward Christiansburg, Virginia, on azimuth 265.2 degrees.

CORRECTIONS

4674-CF-P-76, Southern Pacific Communications Company (WQO 34), Southern Pacific Bldg., Midway Wells, California. (Lat. 32°-42'36" N., Long. 115°07'33" W.). This entry appearing in Public Notice dated Agust 16, 1976, No. 819 is corrected to show call sign as listed above. All other particulars remain the same.

4675-CF-P-76, Southern Pacific Communications Company (WQO 32), Southern Pacific Bldg., Telegraph Pass, Arizona. (Lat. 32°-40'13" N., Long. 114°20'05" W.): This entry appearing in Public Notice dated August 16, 1976, No. 819 is corrected to show longitude listed as above. All other particulars remain the same.

4676-CF-P-76, Southern Pacific Communications Company (WQO 31), Southern Pacific Bldg., Oatman Mtn., Arizona. (Lat. 33°03'-06" N., Long. 113°08'03" W.): This entry appearing in Public Notice dated August 16, 1976, No. 819 is corrected to show 3850.0H MHz toward White Tank and Telegraph Mountain, both in Arizona. All other particulars remain the same.

4677-CF-P-76, Southern Pacific Communications Company (WQO 30), Southern Pacific Bldg., White Tank Mtn., Arizona. (Lat. 33°34'31" N., Long. 112°34'41" W.): This entry appearing in Public Notice dated August 16, 1976, No. 819 is corrected to show 3710.0V MHz toward Oatman Mtn., and 6301.0H MHz toward Phonenix, both in Arizona. All other particulars remain the same.

4734-CF-P-76, Midwestern Relay Co. (WLJ 43), Merchandise Mart, Chicago, Illinois. Lat. 41°53'18" N., Long. 87°38'07" W.): This entry appearing in Public Notice dated 8-16-76, No. 819 is corrected to show latitude as above listed. All other particulars remain the same.

[FR Doc.76-25177 Filed 8-27-76;8:45 am]

BROADCAST SERVICE WORKING GROUPS; 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meetings

AUGUST 25, 1976.

Pursuant to Public Law 92-463, notice is hereby given of the following meetings for September 1976.

WARC-79 AM BROADCASTING SERVICE GROUP

Wednesday, September 15, 1976—10:30 AM to 12:30 PM, Room 6331—2025 "M" Street, N.W., Washington, D.C.

Chairman: D.C. Everist
FCC Liaison: Dennis Williams

WARC-79 FM BROADCASTING SERVICE GROUP

Wednesday, September 29, 1976—2:00 PM to 4:00 PM, Room 8009—2025 "M" Street, N.W., Washington, D.C.

Chairman: Gary Hess
FCC Liaison: Hideyuki Noguchi

WARC-79 TV BROADCASTING SERVICE GROUP; WARC-79 AUXILIARY BROADCASTING SERVICE GROUP

A joint meeting of the TV Broadcasting Service Group and the Auxiliary Broadcasting Service Group will be held on: Thursday, September 30, 1976—1:30 PM to 4:00 PM, Room 6331—2025 "M" Street, N.W., Washington, D.C.

TV B/C

Chairman: James D. Parker
FCC Liaison: Charles H. Breig.

AUX B/C

Chairman: John Serafin
FCC Liaison: Al Jarratt

WARC-79 SATELLITE BROADCASTING SERVICE GROUP

Thursday, September 30, 1976—9:30 AM to 12:00 PM, Room 6331—2025 "M" Street, NW., Washington, D.C.

Chairman: Edward E. Reinhart
FCC Liaison: Charles H. Breig

WARC-79 INTERNATIONAL BROADCASTING SERVICE GROUP

Tuesday, September 14, 1976—10:00 AM to 12:00 PM, Room A-205—1229 20th St., NW., Washington, D.C.

Chairman: Stanley Leinwoll
FCC Liaison: Lloyd R. Smith

The Agenda for each Service Group will be the same as follows:

1. Call to Order by the Chairman.
2. Approval of Minutes of the previous meeting.
3. Reports from Task Groups.
4. Further Discussion.
5. Next Meeting Date and Adjournment.

The above meetings are open to broadcast industry representatives and interested members of the public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-25334 Filed 8-27-76;8:45 am]

[Report No. I-263]

INTERNATIONAL AND SATELLITE RADIO APPLICATIONS ACCEPTED FOR FILING

Common Carrier Services Information

AUGUST 23, 1976.

By the Chief, Common Carrier Bureau.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined that they are defective and not in conformance with the Commission's Rules, Regulations or its policies. Final action will not be taken on any of these applications earlier than 31 days from the date of this notice. Section 309(d)(i).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

471-DSE-P/L-76 Teleprompter Corporation Kalispell, Montana. To construct, own and operate a Domestic Communication satellite receive-only earth station. Lat. 48°12'34" Long. 114°12'34" Rec. Freq. 3700-4200 MHz, Emission 36000F9, 10 meter antenna.

472-DSE-P-76 Cox Cable Communications, Inc., El Cajon, California. To construct, own and operate a domestic receive-only earth station Lat. 32°48'39" Long. 116° 58'41" Rec. Freq. 3700-4200 MHz, Emission 36000F9 10 meter antenna.

INFORMATIVE

These applications represent the first 14 of as many as 165 construction permit applications for earth station to interconnect Public Broadcasting stations in the contiguous 48 states, Alaska, Hawaii, Puerto Rico and Virgin Islands. In addition to these specific earth station applications a comprehensive document supporting this proposal has been filed entitled "Description of

Public Broadcasting Satellite Interconnection Plan." Western Union Telegraph Company has also filed an application (File No. I-T-C-2647) for such section 214 authority as may be necessary in conjunction with this proposal. (See Public Notice I-264)

456-DSE-P-76 Public Broadcasting Service Fairfax County, Virginia. For authority to construct, own and operate a domestic communications satellite transmit-receive earth station at this location. Lat. 38° 47'39", Long. 77°09'55". Trans. Freq. 5925-6425 MHz. Rec. Freq. 3700-4200 MHz. Emission 36000F9. Two 11 meter antennas.

457-DSE-P-76 University of Utah, Salt Lake City, Utah. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 40°45'58", Long. 111°51'03". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

458-DSE-P-76 University of Houston, Houston, Texas. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 29°42'52", Long. 95°20'53". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

459-DSE-P-76 Florida Central East Coast Educational Television, Inc., Orlando, Florida. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 28°28'12", Long. 81°25'01". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

460-DSE-P-76 Greater Washington Educational Telecommunications Association, Inc., Arlington, Virginia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 38°50' 36", Long. 77°05'17": Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

461-DSE-P-76 Greater New Orleans Educational Television Foundation, New Orleans, Louisiana. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 29°59'18", Long. 90°06'20". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

462-DSE-P-76 Oklahoma Educational Television Authority, Oklahoma City, Oklahoma. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 35°32'53", Long. 97°29'53". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

463-DSE-P-76 Mississippi Authority for Educational Television, Jackson, Mississippi. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 32°20'16", Long. 90°08'47". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

464-DSE-P-76 Nebraska Educational Television Commission, Lincoln, Nebraska. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 40°52'19", Long. 96°48'35". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

465-DSE-P-76 Educational Television Association of Metropolitan Cleveland, Cleveland, Ohio. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 41°25'12", Long. 81°42'54". Rec. Freq. 3700-4200 MHz. Emission 36000F9 10 meter antenna.

466-DSE-P-76 Arizona Board of Regents, Tempe, Arizona. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 33°25'10", Long. 111°56'14". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

467-DSE-P-76 University of South Dakota, Vermillion, South Dakota. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 42°-47'07", Long. 96°55'42". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

468-DSE-P-76 Georgia State Board of Education, Atlanta, Georgia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 33°42'49" Long. 84°24'08". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

469-DSE-P-76 St. Louis Educational Television Commission, St. Louis, Missouri. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 38°28'55" Long. 90°23'50". Rec. Freq. 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

474-DSE-ML-76 220 Television, Inc. For modification of a receive-only earth station license (Call Sign KB96) to permit shared use of these facilities with KSD/KSD-TV, Inc., licensee of Station KSD-TV, St. Louis, Missouri.

[FR Doc.76-25176 Filed 8-27-76;8:45 am]

FM AND TV TRANSLATOR APPLICATIONS

Ready and Available for Processing Pursuant to Sections 1.572(c) and 1.573(d) of the Commission's Rules

Adopted: August 17, 1976. Released: August 20, 1976. By the Chief, Broadcast Bureau.

Notice is hereby given pursuant to sections 1.427(c) and 1.573(d) of the Commission's rules, that on October 11, 1976, the TV and FM translator applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(d) and section 1.519(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 8, 1976, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on October 8, 1976.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-5567 (New), Plain & Lake Wenatchee area, Washington, Lake Wenatchee T.V., Inc. Req: Channel 10, 1 watt. Primary: KXLY-TV, Spokane, Washington.

BPTTV-5625A (K03CS), Broadus, Montana, Powder River County TV Board. Req: To add Upper Powder River Communities, Montana, to present principal community.

BPTTV-5626A (K07AI), Broadus, Rural Mizpah, Mid Powder River Communities & Upper Powder River Community, Montana, Powder River County TV Board. Req: To add Belle Creek & Biddle Communities, Montana, to present principal community.

BPTTV-5628 (New), Riverton, Arapahoe & Rural Fremont County, Wyoming, Riverton Fremont TV Club, Inc. Req: Channel 3, 10 watts. Primary: KOAT(TV), Denver, Colorado.

BPTTV-5629 (K02EW), Mescalero, New Mexico, Apache Tribe of Mescalero. Req: To change frequency to Ch-10, 192-198 MHz, and primary TV station to KOAT-TV, Albuquerque, New Mexico.

BPTTV-5630 (New), Mescalero Apache Reservation, New Mexico, Apache Tribe of Mescalero. Req: Channel 8, 10 watts. Primary: KOAT-TV, Albuquerque, New Mexico.

BPTTV-5631 (New), Douglas Creek & Rural Area, Colorado, XYZ Television, Inc. Req: Channel 3, 10 watts. Primary: KREX(TV), Grand Junction, Colorado.

BPTTV-5633 (K08GT), Chadron, Nebraska, Nebraska Educational Television Commission. Req: To add Chadron Housing Dev., Nebraska, to present principal community.

BPTTV-5634 (New) East Price, Utah, Carbon County. Req: Channel 4, 10 watts. Primary: KTVX(TV), Salt Lake City, Utah.

BPTTV-5635 (New) East Price, Utah, Carbon County. Req: Channel 7, 1 watt. Primary: KUED(TV), Salt Lake City, Utah.

BMPTTV-875 (K11NG) Silver Peak, Nevada, Silver Peak TV District. Req: To change primary TV station to KTVN, Reno, Nevada.

BMPTTV-876 (K13OA) Silver Peak, Nevada, Silver Peak TV District. Req: To change primary TV station to KCRL-TV, Reno, Nevada.

BMPTTV-878 (K06AA) Rural Mizpah, Broadus, Mid Powder River Communities & Upper Powder River Community, Montana, Powder River County TV Board. Req: To add Belle Creek & Biddle Communities, Montana, to present principal community.

UHF TV TRANSLATOR APPLICATIONS

BPTT-3004A (K82AR) Durango, Colorado, XYZ Television, Inc. Req: To add Hermosa, Colorado to present principal community.

BPTT-3031A (New) Steamboat Springs, Colorado, Moffat County. Req: Channel 64, 100 watts. Primary: KWGN(TV), Denver, Colorado.

BPTT-3038 (New) Columbia, Missouri, New Wave Corporation. Req: Channel 56, 100 watts. Primary: KCPT(TV), Kansas City, Missouri.

BPTT-3039 (W64AB) Hawley, Pennsylvania, Northeastern Pennsylvania Educational Television Association. Req: To change frequency to Ch-62, 758-764 MHz.

BPTT-3030A (New) Pine Grove, Pennsylvania, Northeastern Pennsylvania Television Association. Req: Channel 59, 1,000 watts. Primary: WVIA(TV), Scranton, Pennsylvania.

FM TRANSLATOR APPLICATIONS

BPFT-333 (New) Cortez, Mancos & Dolores, Colorado, Music Man, Incorporated. Req: Channel 292, 106.3 MHz, 10 watts. Primary: KRWN(FM), Farmington, New Mexico.

BPFT-334 (New) Fremont, Ohio, Christian Laymen's Fellowship. Req: Channel 296, 107.1 MHz, 1 watt. Primary: WPOS(FM), Holland, Ohio.

BPFT-335 (New) Ft. Collins, Colorado, Fort Collins Friends of KVOD, Inc. Req: Channel 244, 96.7 MHz, 10 watts. Primary: KVOD(FM), Denver, Colorado.

BPFT-336 (New) Yreka, California, Northern California Communications Corporation. Req: Channel 292, 106.3 MHz, 10 watts. Primary: KVIP(FM), Redding, California.

BPFT-337 (K252AH) Omak and Okanogan, Washington, Chiristian Translator Association. Req: To change output frequency to Ch-280, 103.9 MHz.

BPFT-338 (New) Rural Garfield County, Richfield & Rural Wayne County, Utah, Garfield County. Req: Channel 272, 102.3 MHz, 10 watts. Primary: KSOP-FM, Salt Lake City, Utah.

BPFT-339 (New) Boulder, Colorado, Capitol City Broadcasting Company. Req: Channel 269, 101.7 MHz, 10 watts. Primary: KVOD (FM), Denver, Colorado.

BPFT-340 (New) Klamath Falls, Henley, Altamont, Keno, Merrill, Malin, all Oregon and Tulelake, California Inspirational Radio, Southern Oregon. Req: Channel 296, 107.1 MHz, 10 watts. Primary: KVIP(FM), Redding, California.

PMPFT-34 (K249AD) Imlay, Nevada, Western Inspirational Broadcasters, Inc. Req: To add Lovelock to present principal community.

Application deleted from Public Notice released June 15, 1976 (Mimeo #66289 41 FR 25049):

BPTT-3007 (New) Hamburg & Shoemakersville, Pennsylvania, Northeastern Pennsylvania Television Association. Req: Channel 51, 1,000 watts. Primary: WVIA(TV), Scranton, Pennsylvania.
(Assigned new file number BPTT-3030A.)

Applications deleted from Public Notice released June 3, 1976 (Mimeo #65650 41 F.R. 22626).

BPFT-320 (New) Boulder, Colorado, Capitol City Broadcasting Company. Req: Channel 275, 102.9 MHz, 10 watts. Primary: KVOD (FM), Denver, Colorado.
(Assigned new file number BFPT-339.)

BPTTV-5567 (K08FC) Plain Lake Wenatchee area, Washington, Lake Wenatchee T.V., Inc. Req: To change frequency to Ch-10, 192-198 MHz, and primary TV Station to KXLY-TV, Spokane, Washington.

[FR Doc.76-25175 Filed 8-27-76;8:45 am]

OFFICE OF THE FEDERAL REGISTER

HOW TO USE THE FEDERAL REGISTER

Public Briefings in Kansas City, Missouri

"The FEDERAL REGISTER—What It Is and How To Use It" will be the topic of two separate briefings to be offered by the Office of the Federal Register on Tuesday, September 28, and Wednesday, September 29, 1976, from 9:45 a.m. until 12:30 p.m.

The Wednesday briefing will be a repeat of the Tuesday briefing. These sessions will be held in Room 140 of the Federal Building at 601 East 12th Street, Kansas City, Missouri.

Both sessions are open to the general public and Federal agency personnel and should be useful to anyone who uses the FEDERAL REGISTER. Seating is limited and reservations are required. Reservations may be made by telephoning Mrs. Doris Huntington, 816-374-2466.

The sessions will last approximately three hours and will cover the following areas:

1. A brief history of the FEDERAL REGISTER.

2. The difference between legislation and regulations.

3. The relationship of the FEDERAL REGISTER and the CODE OF FEDERAL REGULATIONS.

4. Important elements of a typical FEDERAL REGISTER document.

5. An introduction to the finding aids of the Office of the Federal Register.

In addition, attendees will undertake a practical problem-solving exercise and will be invited to provide information on their uses of FEDERAL REGISTER publications in order to help this office improve its services.

The Office of the Federal Register does not interpret specific agency regulations, and these sessions will not provide a forum for the discussion of substantive questions. Rather, the briefings are designed as an introduction for the person who discovers that he or she must use FEDERAL REGISTER publications to keep track and to gain an understanding of Federal regulations.

FRED J. EMERY,
Director of the Federal Register.

AUGUST 26, 1976.

[FR Doc.76-25488 Filed 8-27-76;9:04 am]

FEDERAL MARITIME COMMISSION

[Docket No. 76-46; Agreements Nos. T-3191, et al.]

SEA-LAND SERVICES, INC.

Order of Investigation and Hearing

Four agreements relating to the use of marine terminal facilities at Puerto Nuevo, San Juan, Puerto Rico, have been filed with the Commission for approval under section 15 of the Shipping Act, 1916. Agreement No. T-3191, which is between Sea-Land Service, Inc., (Sea-Land) the Puerto Rico Maritime Shipping Authority (PRMSA) and the Puerto Rico Ports Authority (Port) provides for Sea-Land's irrevocable option to substitute itself for PRMSA on the same terms and conditions as set forth in Agreement No. T-3210 (below), an agreement whereby PRMSA has preferential rights at and leases land adjacent to Berth F, Puerto Nuevo, San Juan. Agreement No. T-3193, which is between Sea-Land PRMSA, provides for the preferential interchange of cantainer cranes at Puerto Nuevo, San Juan. Agreement No. T-3199, which is between the Port and Sea-Land, provides for Sea-Land's preferential rights at and the lease of land adjacent to Berth E, Puerto Nuevo, San Juan. Agreement No. T-3210, which is between the Port and PRMSA, provides for PRMSA's preferential rights at and the lease of land adjacent to Berth F, Puerto Nuevo, San Juan. In addition, there exists an agreement entitled the "Puerto Nuevo Contract" which has not been formally filed for Commission approval and provides for various considerations in connection with PRMSA's and Sea-Land's arrangements at Puerto Nuevo under Agreements Nos. T-3193, T-3199 and T-3210.

Notice of the filing of Agreements Nos. T-3191, T-3193, T-3199 and T-3210 (hereinafter Agreements Nos. T-3191, et al.) was published in the FEDERAL REGISTER, and Seatrain Gitmo, Inc., (Seatrain Gitmo) has filed a Protest and Request for Hearing on these agreements. While the Puerto Neuvo Contract (hereafter Contract) has been supplied to our staff for informational purposes, it is the parties' position that the Contract is not subject to section 15, Shipping Act, 1916, and the Contract was not formally filed for Commission action pursuant to section 15, Shipping Act, 1916. Consequently, notice of the Contract has not been published in the FEDERAL REGISTER for comments.

Seatrain Gitmo states, that, as a competitor of Sea-Land and PRMSA, it is vitally affected by the effect that Agreements Nos. T-3191, et al., may have on its efforts to obtain a regular container berth and crane in San Juan, since these agreements' approval would act to aggravate the already untenable situation with which it is confronted in the Port as such approval may preclude Seatrain Gitmo's obtaining a berth or cranes in San Juan until sometime in the distant future. Seatrain Gitmo further alleges that Agreements Nos. T-3191, et al., are discriminatory among carriers and may act to the detriment of the commerce of the United States and be contrary to the public interest within the meaning of section 15, Shipping Act, 1916, and the agreements appear to violate section 16 First, Shipping Act, 1916, by granting the parties thereto various undue and unreasonable preferences and advantages to the detriment of Seatrain Gitmo and other competitors.

Seatrain Gitmo therefore submits that a hearing is required by *Marine Space Enclosures, Inc.* v. *F.M.C.*, 420 F.2d 557 (D.C. Cir. 1969), to determine whether the extent of the restrictions imposed by Agreements Nos. T-3191, et al., in connection with other existing arrangements for berths and cranes in San Juan serve any serious transportation needs which outweigh these agreements' alleged detriment to Seatrain Gitmo and the public interest.

PRMSA, however, argues that the protest is submitted only in the furtherance of Seatrain Gitmo's efforts to secure access to container cranes located at the Isla Grande portion of the ports, therefore the protest raises no issues bearing on the approvability of Agreements Nos. T-3191, et al., since these agreements relate to facilities located in an entirely different portion of the port. In PRMSA's opinion, the adverse impact Seatrain Gitmo claims that approval of Agreements Nos. T-3191, et al., would have on its efforts to obtain a crane at San Juan is nonexistent and wholly speculative; Seatrain Gitmo has failed to demonstrate, other than by conjecture, that the agreements' approval would have any discriminatory impact on Seatrain Gitmo or any other carrier. Further, PRMSA states that it is not aware of any statute, rule or decision requiring that the owner of certain shipping facilities must make

those facilities available to its competitors; therefore, PRMSA contends that section 15, Shipping Act, 1916, does not require a hearing on the matters Seatrain Gitmo raises in its protest. Therefore, PRMSA urges the Commission to deny Seatrain Gitmo's request for a hearing and approve Agreements Nos. T-3191, et al., or in the alternative, requests that the Commission grant interim approval of Agreements Nos. T-3191, et al., pending the outcome of any proceeding.

Seatrain Gitmo's protest appears to raise legitimate issues with respect to the effect Agreements Nos. T-3191, et al., may have on the future use of marine terminal facilities at San Juan if they are implemented. Therefore, the Commission is of the opinion that Agreements Nos. T-3191, et al., should be made the subject of a public investigation and hearing to determine the effect these agreements may have on other users of the Port of San Juan, and to determine (a) whether these agreements should be approved, disapproved, or modified, under the standards set by section 15, Shipping Act, 1916; and (b) to determine whether these agreements violate section 16 First, Shipping Act, 1916.

We are including the Puerto Nuevo Contract in this proceeding since the considerations provided for by the Contract appear to be an integral component of the overall transactions contemplated by protested Agreements Nos. T-3193, T-3199 and T-3210. Accordingly, the investigation and hearing ordered herein will also determine (a) whether the Puerto Nuevo Contract is subject to section 15, Shipping Act, 1916, and, if so, whether it should be approved, disapproved or modified pursuant to section 15, Shipping Act, 1916; and (b) whether the Puerto Nuevo Contract, together with Agreements Nos. T-3191, et al., constitutes the parties' complete understanding with respect to their use of marine terminal facilities at Puerto Nuevo, San Juan, Puerto Rico.

As noted above, PRMSA has requested that we grant Agreements Nos. T-3191, et al., interim approval pending the outcome of any proceeding on this matter. We are denying this request since the parties have not shown that interim approval of Agreements Nos. T-3191, et al., is necessitated by any emergency condition or other overriding public interest consideration. Order Denying Petition for Reconsideration, Canadian-American Working Arrangement, et al., Docket No. 75-56 (February 26, 1976).

Now, therefore, it is ordered, That the Commission enter upon an investigation and hearing pursuant to sections 15, 16 and 22 of the Shipping Act, 1916, to determine whether Agreements Nos. T-3191, T-3193, T-3199 or T-3210 are unjustly discriminatory or unfair as between carriers, shippers, exporters, or importers, or operate to the detriment of the commerce of the United States, or are contrary to the public interest; or are otherwise in violation of the Shipping Act, 1916, and whether Agreements Nos. T-3191, T-3193, T-3199 or T-3210 should be approved, disapproved or modified;

It is further ordered, That it be determined whether the Puerto Nuevo Contract is subject to section 15 and, if so, whether it should be approved, disapproved or modified pursuant to section 15, Shipping Act, 1916;

It is further ordered, That it be determined whether Agreements Nos. T-3191, T-3193, T-3199, T-3210 and the Puerto Nuevo Contract constitute the parties' complete understanding with respect to their use of marine terminal facilities at Puerto Nuevo, San Juan, Puerto Rico;

It is further ordered, That it be determined whether Agreements Nos. T-3191, T-3193, T-3199, T-3210 or the Puerto Nuevo Contract together or separately make or give any undue or unreasonable preference or advantage to any particular person or subject any particular person to any undue or unreasonable prejudice or disadvantage in violation of section 16, First, Shipping Act, 1916;

It is further ordered, That PRMSA's request for interim approval of Agreements Nos. T-3191, T-3193, T-3199 and T-3210 be and hereby is denied;

It is further ordered, That in the event any modification of Agreements Nos. T-3191, T-3193, T-3199, T-3210 or the Puerto Nuevo Contract is filed with the Commission, such modification shall be made subject to this investigation for approval, disapproval or modification under the standards of section 15 of the Shipping Act, 1916;

It is further ordered, That the Puerto-Rico Ports Authority, the Puerto Rico Maritime Shipping Authority and Sea-Land Service, Inc., be named as Respondents herein;

It is further ordered, That Seatrain Gitmo, Inc., be named Petitioner herein;

It is further ordered, That a public hearing be held in this proceeding to commence on or before February 24, 1977, and that this matter be assigned for such hearing and Initial Decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges;

It is further ordered, That a copy of this Order be forthwith served upon Respondents and Petitioner herein, and upon the Commission's Bureau of Hearing Counsel, and be published in the FEDERAL REGISTER; and that the Respondents, Petitioner, and Hearing Counsel be duly served with notice of time and place of the hearing;

It is further ordered, That any person other than Respondents, Petitioner, and Hearing Counsel, having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 5(1) (46 C.F.R. § 502.72) of the Commission's Rules of Practice and Procedure.

Pursuant to these Rules, absent good cause shown, parties must commence discovery procedures on or before September 29, 1976, and any intervenor desiring to utilize the discovery procedures prescribed by Subpart L thereof, must commence doing so not later than 15 days after his petition for leave to intervene has been granted. If petition for leave to intervene is filed later than 30 days after the date of publication of this Order in the FEDERAL REGISTER, petitioner will be deemed to have waived his right to utilize such procedures unless good cause is shown for the failure to file the petition within the 30-day period (46 C.F.R. 502.72(b)).

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.76-25349 Filed 8-27-76;8:45 am]

FEDERAL POWER COMMISSION

National Gas Survey

TRANSMISSION, DISTRIBUTION & STORAGE-TECHNICAL ADVISORY TASK FORCE—RATE DESIGN

Agenda of Meeting

North Building—Room 3401, Federal Power Commission, Union Plaza Building, 941 North Capitol Street, NE., Washington, D.C. 20426.

September 14, 1976, 9:30 a.m.

Presiding: Mr. John F. Craig, FPC Coordinating Representative and Secretary.

1—Call to order: Mr. John F. Craig.

2—Review of recommendations presented May 21, 1976, by Subgroups 1A and 1B.

3—Receive preliminary comments of the other Subgroups on remaining initial agenda items.

4—Discussion of procedure for drafting the report.

5—Establishing next meeting date and agenda.

6—Discussion of other matters.

7—Adjournment: Mr. John F. Craig.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-25442 Filed 8-27-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1976 No. 32]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING AUGUST 7, 1976

ACTIONS OF THE BOARD

Notice of proposed rulemaking relating to providing management consulting advice; the Board will receive comment on the proposed amendment to its Regulation Y and on a related application through September 8, 1976.

Stanley Bancshares, Inc., Stanley, Kansas, extension of time to August 9, 1976, within which to file its registration statement.[1]

SYB Corporation, Oklahoma City, Oklahoma, extension of time to September 9, 1976, within which to consummate acquisition of the Stock Yards Bank, Oklahoma City, Oklahoma.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

Termination of registration under Regulation G for Anniston Production Credit Association, Anniston, Alabama.[1]

Bank of Suffolk County, Hauppauge, New York, extension of time within which to establish a public accommodation office at the intersection of First Avenue and Second Street, St. James, Suffolk County, New York.[1]

Bank of Lansing, Lansing, Michigan, to make an investment in bank premises.[1]

United California Bank, Los Angeles, California, extension of time to February 21, 1977, within which to establish a branch in the vicinity of the intersection of Stevens Creek Boulevard and Saich Way, City of Cupertino, California.[1]

Ahmanson Bank and Trust Company, Beverly Hills, California, proposed acquisition by California Overseas Bank, Beverly Hills, California; report to the Federal Deposit Insurance Corporation on competitive factors.

Central National Bank, Waterville, Maine, proposed merger with Canal National Bank, Portland, Maine; report to the Comptroller of the Currency on competitive factor.

Chester Bank, N.A., Chester, New York, proposed merger with The Chester National Bank, Chester, New York; report to the Comptroller of the Currency on competitive factors.

Heights Bank, National Association, Alamo Heights, Texas, proposed merger with Alamo Heights National Bank, Alamo Heights, Texas; report to the Comptroller of the Currency on competitive factors.

Hardwick Trust Company, Hardwick, Vermont, proposed merger with The Merchants Bank, Burlington, Vermont; report to the Federal Deposit Insurance Corporation on competitive factors.

Subsidiaries of City National Bank Corporation, Miami, Florida, proposed acquisition by City National Bank of Miami, Miami, Florida; report to the Comptroller of the Currency on competitive factors.

United Jersey Bank/City National, Vineland, New Jersey, proposed merger with The Cumberland National Bank of Bridgeton, Bridgeton, New Jersey; report to the Comptroller of the Currency on competitive factors.

NOTE.—The H.2 release is now published in the FEDERAL REGISTER. It will continue to be sent, upon request, to anyone desiring a copy.

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Richwood Banking Company, Richwood, Ohio. Branch to be established at 601 West Main Street, Plain City, Union County.[2]

Capital City State Bank, Des Moines, Iowa. Branch to be established at 1237 Grand Avenue, West Des Moines.[2]

Peoples Bank & Trust Company, Russellville, Arkansas. Branch to be established at the intersection of D Street and North Arkansas Avenue, Russellville, Pope County.[2]

Valley Bank and Trust Company, Salt Lake City, Utah. Branch to be established in the vicinity of 2100 East & 1300 South in Salt Lake City.[2]

* * * * *

To become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Laurel Bank of Kansas City, Kansas City, Missouri.[2]

* * * * *

International Investments and Other Actions Approved Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

Citicorp: proposed plan of divestiture regarding various subsidiaries of IAC (Holdings) Limited, Melbourne, Australia.

Continental International Finance Corporation: investment—additional in Banco Atlantico, Barcelona, Spain.

Manufacturers National Bank of Detroit: for an indefinite extension of its recently expired authorization to acquire additional shares of Atlantic International Bank Limited, London, England.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

CUbank Corp., Columbus, Ohio, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Alexandria Bank Company, Alexandria, Ohio.

Peoples Bankshares, Ltd., Waterloo, Iowa, for approval to acquire 56 per cent or more of the voting shares of Peoples Bank and Trust Company, Waterloo, Iowa.[2]

First Yukon Bankshares, Inc., Oklahoma City, Oklahoma, for approval to acquire 84.77 per cent of the voting shares of The First National Bank of Yukon, Yukon, Oklahoma.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

DELAYED

Otto Bremer Company and Otto Bremer Foundation, St. Paul, Minnesota, notification of intent to engage in de novo activities (providing certain investment financial or economic information and advice) at 1300 Northern Federal Building, 385 North Wabasha Street, St. Paul, Minnesota, through a subsidiary, Bremer Service Company, Inc. (August 6, 1976).[3]

APPROVED

Fort Sam Houston Bankshares, Incorporated, San Antonio, Texas, for approval to acquire 100 per cent of the voting shares of Greenwood Life Insurance Company, San Antonio, Texas.

PERMITTED

Bank of Virginia Company, Richmond, Virginia, notification of intent to engage in de novo activities (making loans or extensions of credit such as would be made by a finance company; and acting as agent for credit life/accident and health insurance and other insurance written to protect collateral during the period of credit extension) at 3416 Jefferson Davis Highway, Richmond, Virginia, through a subsidiary, The Budget Plan Company of Virginia (August 7, 1976).[3]

Ashton Investment Company, Rock Rapids, Iowa, notification of intent to engage in de novo activities (leasing of real property on a one time basis where at the inception of the initial lease the expectation is that the effect of the transaction will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated cost of financing the investment over the term of the lease) at 104 North Story Street, Rock Rapids, Iowa (8-2-76).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making of consumer installment loans, purchasing installment sales finance contracts, and making of loans to small businesses; acting as agent or broker for the sale of credit related life/accident and disability insurance, and credit related property and casualty insurance in connection with extensions of credit by FinanceAmerica Corporation, 1717 Main Street, Columbia to 17 Diamond Lane, Columbia, South Carolina, through its subsidiary, FinanceAmerica Corporation (South Carolina) (8-1-76).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the origination and acquisition of mortgage loans, including development and construction loans on multifamily and commercial properties for its own account or for the sale to others, and the servicing of such loans for others) from 10933 Valley Boulevard, El Monte to 1520 West Cameron, West Covina, California, through its subsidiary, Security Pacific Mortgage Corporation (8-1-76).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit, servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extension of credit by Wells Fargo & Company or its subsidiaries: credit life and credit accident and health insurance, and mortgage redemption life insurance and group mortgage disabiltiy insurance) at 201 East Monte Vista, Vacaville, California, through its subsidiaries, Wells Fargo Mortgage Company and WFMC Corporation (8-6-76).[3]

WITHDRAWN

Liberty National Corporation, Oklahoma City, Oklahoma, notification of intent to engage in de novo activities (making or acquiring, for its own account or the account of others, loans or other extensions of credit) at 100 Broadway, Oklahoma City, Oklahoma (8/4/76).[3]

To Retain Bank Shares Acquired in a Fiduciary Capacity Pursuant to Section 3 of the Bank Holding Company Act of 1956.

The First Community Bancorporation, Joplin, Missouri, for approval to retain shares of First National Bank of Sarcoxie, Sarcoxie, Missouri.

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[1] See footnote 1, p. 36547.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

First United Bancorporation, Inc. and The First National Bank of Fort Worth, both located in Fort Worth, Texas, for approval to retain 2,725 shares of University Bank, located in Fort Worth, Texas.

* * * * *

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Northern Virginia Bank, Springfield, Virginia. Branch to be established in the Saratoga Shopping Center in the 8000 Block of Rolling Road, Springfield.

American Guaranty Bank, Tampa, Florida. Branch to be established at 1315 South Dale Mabry, Tampa. To be known as American Guaranty Bank-Interbay Branch.

Davenport Bank and Trust Company, Davenport, Iowa. Branch to be established at the Southeast corner of Kimberly Road and U.S. Highway 6, Davenport.

Commerce Union Bank of Memphis, Tennessee. Branch to be established at 2930 Airways Boulevard, Memphis, Shelby County.

Platte Valley Bank, Brighton, Colorado. Branch to be established at 12th and Bridge Street, Brighton.

* * * * *

To Withdraw from Membership in the Federal Reserve System Without a Six-Month Notice as Prescribed by Section 9 of the Federal Reserve Act.

Citizens Bank of Cape Vincent, Cape Vincent, New York.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

M & D Holding Company, Spring Lake Park, Minnesota, for approval to acquire 92 per cent of the voting shares of First State Bank of Spring Lake Park, Spring Lake Park, Minnesota.

Quivira Banc Shares, Inc., Hutchinson, Kansas, for approval to acquire 80 per cent or more of the voting shares of The First National Bank of Sterling, Sterling, Kansas.

The Spalding City Corporation, Spalding Nebraska, for approval to acquire 80 per cent or more of the voting shares of Spalding City Bank, Spalding Nebraska.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire 80 per cent or more of the voting shares of Security National Bank, Smyrna, Georgia.

Dakota Bancorporation, Rapid City, South Dakota, for approval to acquire 80 per cent of the voting shares of First National Bank of Crosby, Crosby, North Dakota, a proposed new bank.

First Midwest Bancorp., Inc., St. Joseph, Missouri, for approval to acquire 80 per cent or more of the voting shares of Platte Valley Bank, Ravenwood, Missouri.

Sellon, Inc., Toledo, Ohio, for approval to acquire 5,509 additional shares of the voting shares of Nevada National Bancorporation, Reno, Nevada, and indirectly acquire additional shares of Nevada National Bank, Reno, Nevada.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Worcester Bancorp, Inc., Worcester, Massachusetts, for approval to engage de novo in the activity of providing management consulting advice to nonaffiliated savings banks, through a subsidiary, Empire Group, Inc., Worcester, Massachusetts.

Bancshares of North Carolina, Inc., Raleigh, North Carolina, notification of intent to engage in de novo activities (plan administration services for qualified corporate defined benefit and defined contribution plans, plan design assistance, employee participant benefit communication services, and plan allocation) at 3509 Haworth Drive and Branch Banking and Trust Building, Raleigh, North Carolina. (8/4/76) [3]

Marshall & Ilsley Corporation, Milwaukee, Wisconsin, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency, or custodian nature and acting as investment or financial advisor in the manner authorized by State law without power to accept demand deposits or make commercial loans) at 5125 North 16th Street, Phoenix, Arizona, through its subsidiary, The Marshall & Ilsley Trust Company of Arizona. (7/30/76) [3]

Mercantile Texas Corporation, Dallas, Texas, for approval to acquire Financial Protection Insurance Company of Texas, Houston, Texas; with offices located in Austin, Texas; San Antonio, Texas; Corpus Christi, Texas; New Braunfels, Texas; and Houston, Texas (underwriting as a direct insurer and reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by the holding company system).

M & S BanCorp, Janesville, Wisconsin, notification of intent to engage in de novo activities (leasing of real property and acting as agent, broker, or adviser in leasing real property; provided, that at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than its full investment in the property over the term of the lease) at 12 West Milwaukee Street, Janesville, Wisconsin, through its subsidiary, M & S Leasing Company, Inc. (7/21/76)[3] (The above should have been included in the H.2 No. 31 for the week ending July 31, 1976.)

REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 20, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25305 Filed 8-27-76;8:45 am]

BANCAL TRI-STATE CORP.

BanCal Tri-State Corporation "Tri-State"), San Francisco, California, a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(a)) ("Act"), by virtue of its ownership of 99.95 per cent of the issued and outstanding voting shares of The Bank of California, N.A. ("Bank"), San Francisco, California, has requested a determination, pursuant to Section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), that neither Tri-State nor Bank is in fact capable of controlling Western Pacific Financial Corporation ("West Pac"), San Bernardino, California, notwithstanding the fact that West Pac is indebted to Bank. Bank has sold all of its stock-holdings in BanCal Mortgage Company, formerly a direct subsidiary of Bank, pursuant to an agreement dated November 5, 1975.

Under the provisions of section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), shares transferred after January 1, 1966, by any bank holding company to a transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, are deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

Tri-State has submitted to the Board evidence to support its contention that Tri-State does not in fact control West Pac.

Notice of an opportunity for hearing with respect to Tri-State's request for a determination under Section 2(g)(3) was published on January 15, 1976 (41 FR 2279 (1976)). The time provided for requesting a hearing has expired. No such request has been received by the Board.

It is hereby determined that neither Tri-State nor Bank is in fact capable of controlling West Pac. This determination is based upon the evidence of record in this matter, including the following facts. West Pac is a publicly-owned corporation of substantial size and is unaffiliated with Tri-State or Bank. West Pac has historically maintained a credit relationship with Bank, although this has not appeared to have conferred control by Bank over West Pac, but rather was established in the normal course of business to aid West Pac in the independent conduct of its mortgage financing operations. No security interest was retained in the assets of Mortgage transferred to West Pac, and although Bank increased the line of credit it made available to West Pac following the transfer, the increase was not extended to provide West Pac with funds for the purchase of Mortgage, but rather was made to assist West Pac in the servicing of the business it acquired through Mortgage. West Pac's initial borrowings on this increased line of credit have already been significantly repaid. Furthermore, the sale of Mortgage to West Pac appears to have been the result of arms-length negotiations, and there are no interlocking officer or director relationships between Tri-State or its subsidiaries and West Pac. The

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

board of directors of West Pac has submitted a resolution disclaiming control over West Pac by Tri-State or its subsidiaries, and a similar resolution by the board of directors of Tri-State was submitted disclaiming control over West Pac.

Accordingly, it is ordered, That the request of Tri-State for a determination pursuant to Section 2(g)(3) be and hereby is granted. Any material change in the facts or circumstances relied upon by the Board in making this determination or any material breach of any of the commitments upon which the Board based its decision could result in the Board reconsidering the determination made herein.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(1)), effective August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25312 Filed 8-27-76;8:45 am]

ESTATE OF JAMES MILLIKIN, DECEASED

Acquisition of Proposed Bank Holding Company

Estate of James Millikin, Deceased, Decatur, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 55 per cent of the voting shares of Millikin Bancshares, Inc., Decatur, Illinois, a proposed bank holding company. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 23, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25310 Filed 8-27-76;8:45 am]

FIRST MARYLAND BANCORP

Acquisition of Bank

First Maryland Bancorp, Baltimore, Maryland, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3) to acquire 51 per cent of the voting shares of The Hancock Bank, Hancock, Maryland. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 27, 1976.

Board of Governors of the Federal Reserve System, August 23, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25306 Filed 8-27-76;8:45 am]

IOLA BANCSHARES, INC.

Formation of Bank Holding Company

Iola Bancshares, Inc., Iola, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 87.6 per cent or more of the voting shares of The Iola State Bank, Iola, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 14, 1976.

Board of Governors of the Federal Reserve System, August 23, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25307 Filed 8-27-76;8:45 am]

FIRST NATIONAL FINANCIAL CORP.

Acquisition of Bank

First National Financial Corporation, Kalamazoo, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by consolidation to The National Bank of Ludington, Ludington, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 14, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25308 Filed 8-27-76;8:45 am]

MILLIKIN BANCSHARES, INC.

Formation of Bank Holding Company

Millikin Bancshares, Inc., Decatur, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Millikin National Bank of Decatur, Decatur, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 23, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25309 Filed 8-27-76;8:45 am]

MICHIGAN NATIONAL CORP.

Order Denying Acquisition of Bank

Michigan National Corporation, Bloomfield Hills, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to Peoples Bank and Trust, National Association, Trenton, Michigan ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the United States Department of Justice and the Financial Institutions Bureau of the Michigan Department of Commerce, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization and bank holding company in Michigan, controls 16 banks with aggregate deposits of approximately $2.9 billion, representing 9.9 percent of the total commercial bank deposits in the

State.[1] Acquisition of Bank ($119.0 million in deposits) would increase Applicant's share of Statewide deposits to 10.3 percent without changing its ranking in the State. Although consummation of this transaction would not significantly increase the concentration of banking resources in Michigan it would have adverse effects upon concentration in the relevant market.

Bank is the larger of the two banks located in the city of Trenton, a southern suburb of Detroit, and is the 14th largest of 36 banking organizations operating in the Detroit banking market (the relevant market).[2] Applicant has a significant presence in the Detroit market as it operates seven banks with 88 banking offices in the market, and controls $1.3 billion in deposits. Applicant is the fourth largest banking organization in the Detroit market controlling approximately 8.5 percent of total market deposits. Approval of the application would increase Applicant's market share to 9.2 percent.

The Detroit banking market is a concentrated market in which the four largest banking organizations hold approximately 71.0 percent of market deposits. Consummation of the proposal would result in a further increase in this concentration, to 71.7 percent. The facts of record show the proposal would result in the elimination of existing competition. Furthermore, in Wayne County, where the city of Trenton is located, Bank operates 15 out of its 16 banking offices and Applicant has three subsidiary banks with 45 offices. Thus, consummation of this transaction would eliminate existing competition between Applicant and Bank, and would increase the concentration of banking resources in the market.

Bank ranks among the top 10 percent of all Michigan banks in deposit size[3] and approval of the proposal would remove an attractive entry vehicle for a Michigan bank holding company not currently represented in the Detroit market, Michigan's largest market. Thus, approval would lessen the possibility of future market deconcentration through the entry of another banking organization into the market. This factor is even more significant when considered in light of the fact that the overall market is not particularly attractive for *de novo* entry by other banking organizations seeking to gain access to the Detroit banking market. Approval of the proposal would also continue the decline in the number of banking organizations competing in the market, which number has been reduced by 20 per cent from June 1970 to June 1975.[4] Furthermore, the proposal would foreclose the development of future competition by removing Bank as an independent competitor within the Detroit market. As an alternative to acquiring Bank, Applicant could enter *de novo* one of the townships contiguous to Trenton or by branching into one of those townships where home-office protection would not be a bar. On the basis of the foregoing and other facts of record, the Board concludes that approval of the application would have significantly adverse competitive effects.

In acting on this application, the Board has considered the comments of the Department of Justice and the Financial Institutions Bureau of the Michigan Department of Commerce and Applicant's responses thereto. The Justice Department indicated that, in its opinion, the proposed acquisition would eliminate existing and future competition and lead to an increase in the concentration of commercial banking in Wayne County. Applicant responded that, as set forth in the submission by the Michigan Financial Institutions Bureau, Trenton, where Bank is headquartered, is not part of the Detroit banking market and that the market in which to analyze the competitive effects of this proposal is defined as southern Wayne County and the majority of Monroe County, Michigan. It is the Board's opinion, however, that the relevant market for analyzing the competitive effects of this proposal is the Detroit banking market which is approximated by Michigan counties of Macomb, Oakland, and Wayne.[5] In making such an analysis the Board finds, based on the foregoing and other facts of record, that competitive considerations relating to this application weigh sufficiently against approval so that it should not be approved unless the anticompetitive effects are clearly outweighed by benefits to the public in meeting the convenience and needs of the communities to be served.

The financial and managerial resources and prospects of Bank are satisfactory. The financial condition and managerial resources and prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Although certain of Applicant's subsidiaries are in need of additional capital, Applicant has continued to show meaningful progress in strengthening the overall capital position of the holding company and its subsidiaries. Thus, the Board views banking factors as not providing any weight either toward approval or denial of the application.

Considerations relating to the convenience and needs of the communities to be served, at best, add only slight weight toward approval, as the only definite benefits that apparently will be derived from affiliation are some managerial and technical assistance that Applicant would provide Bank.[6] The Board finds that neither the considerations relating to banking factors nor to convenience and needs are sufficient to outweigh the significantly adverse competitive effects of Applicant's proposal.

On the basis of the facts in the record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application is denied for the reasons summarized above.

By order of the Board of Governors,[7] effective August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25311 Filed 8-27-76;8:45 am]

SECURITY BANCSHARES, INC.

Formation of Bank Holding Company

Security Bancshares, Inc., Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent (less directors' qualifying shares) of the voting shares of Security Bank, Tulsa, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 15, 1976.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25313 Filed 8-27-76;8:45 am]

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[1] All banking data are as of December 31, 1975, and reflect banking holding company formations and acquisitions approved through June 30, 1976.

[2] The Detroit banking market is approximated by Macomb, Oakland and Wayne Counties.

[3] Bank ranks 35th out of the 351 banks in Michigan.

[4] In June 1970, there were 45 banking organizations operating in the Detroit market; by June 1975, there were 36 banking organizations in the market.

[5] The Federal Reserve Bank of Chicago undertook a field investigation in the Detroit area to determine the correct market. This investigation was in response to Applicant's defining the Detroit market as comprising the Detroit metropolitan area with the exception of the southern section of Wayne County which includes Trenton. As a result of the field investigation and analysis of all the facts of record, the proper definition of the market for analyzing the competitive effects of the subject proposal is the three-county market.

[6] Applicant has indicated that it intends to suggest certain changes to Bank concerning its, operations which changes, if implemented by Bank's management, would result in some benefits to the public. Most of the changes could be made presently by Bank, but even if they were to be made only upon acquisition by Applicant, they would not provide significant support for approval.

[7] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

STANDARD PRUDENTIAL CORP.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by Standard Prudential Corporation, New York, New York ("Standard"), for a determination that it is not nor will be in fact capable of controlling Uintah National Corporation, Salt Lake City, Utah ("Uintah"), by virtue of the sale of 1,600,000 shares of Talcott National Corporation, New York, New York ("Talcott"), to Uintah.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the tranferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Boad, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 22, 1976. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, August 24, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-25314 Filed 8-27-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 20, 1976 (SEC) and August 23, 1976 (CAB). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed SEC and CAB requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 17, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

SECURITIES AND EXCHANGE COMMISSION

SEC requests clearance of a new "Bank Study Questionnaire" pursuant to section 11A(c) of the Securities and Exchange Act of 1934 (15 U.S.C. 78k-1(e)) which authorizes SEC to make a study of the extent to which persons excluded from the definitions of "broker" and "dealer" maintain accounts on behalf of public customers for buying and selling securities registered under section 12 of the Securities and Exchange Act, and whether such exclusions are consistent with the protection of investors. The survey questionnaire relates to brokerage-type, investment management and advisory, and corporate financing services offered by banks and trust companies. The potential respondents for the questionnaire are banks as defined in Section 3(a)(6) of the Securities Exchange Act of 1934, including (a) banking institutions organized under the laws of the United States; (b) member banks of the Federal Reserve System; (c) any other banking institutions, whether incorporated or not, doing business under the laws of any State of the United States, a substantial portion of the business of which consists of receiving deposits or exercising a fiduciary power similar to those permitted to national banks under Section 11(k) of the Federal Reserve Act, as amended, and which are supervised and examined by State or Federal authority having supervision over banks; and (d) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (a), (b), or (c) above. There are 14,500 banks of which 245 will be surveyed based on a stratified sampling. The reporting burden is estimated by SEC to average 66 hours per respondent.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of Form 41, Report of Financial and Operating Statistics for Certificated Air Carriers. Form 41 contains the basic data which the CAB uses in fulfilling its regulatory responsibilities under the Federal Aviation Act of 1958, as amended. Submission of Form 41 is mandatory under Section 407 of the Act. Respondents are approximately 44 certificated air carriers and CAB estimates the reporting burden (which includes the burden for all monthly, quarterly, semi-annual and annual filings of schedules in Form 41) to be 2,087 hours annually per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-25329 Filed 8-27-76;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (P.L. 92-463) and § 800.5(c) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 C.F.R., Part 800) that on September 14, 1976, at 7:39 p.m., a public information meeting will be held at the Auditorium of the White Plains High School, North Street, White Plains, New York. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the Central Urban Renewal Project, an undertaking assisted by the Department of Housing and Urban Development as it affects the Westchester County Courthouse Complex, White Plains, New York, a property included in the National Register of Historic Places. The urban renewal project proposes the demolition of this National Register property.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Advisory Council.

II. An account of the history of the project, description of the undertaking, an evaluation of its effects on the property, and a presentation of the study of alternatives to demolition by the Department of Housing and Urban Development.

III. A statement by the New York State Historic Preservation Officer.

IV. Statements by other interested Federal and State agencies, if any.

V. Statements by a representative of the White Plains Urban Renewal Agency and of a representative of the City of White Plains.

VI. A statement by a representative of the Save the Courthouse Committee.

VII. Statements from the public on the undertaking as it affects the National Register property.

VIII. A general question period.

Members of the public who desire to speak at this meeting should notify the Director, New York Area Office, Department of Housing and Urban Development, 666 Fifth Avenue, New York, New York, 10019, by close of business Friday,

September 10, 1976. Speakers should limit their statements to approximately five minutes. Written statements in lieu of or in furtherance of oral remarks will be accepted by the Council at the time of the meeting, and such statements may also be sent to the Director, New York Area Office, Department of Housing and Urban Development, 666 Fifth Avenue, New York, New York, 10019, where they will be received until close of business October 5, 1976. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, (202–254–3380).

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc.76-25431 Filed 8-27-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 76-69]

SPACE PROGRAM ADVISORY COUNCIL, SPACE SYSTEMS COMMITTEE

Meeting

The Space Systems Committee of the NASA Space Program Advisory Council will meet on September 20–21, 1976, at the Rockwell International Space Division, Building 1, Executive Conference Room, 12214 Lakewood Boulevard, Downey, California.

The meeting is open to members of the public from 8:00 a.m. to 5:00 p.m. on September 20, 1976, and from 9:00 a.m. to 5:00 p.m. on September 21, 1976, on a first-come, first-served basis to about 40 which is the seating capacity of the room. Visitors will be requested to sign a visitor's register.

The NASA Space Systems Committee serves in an advisory capacity only. It is concerned with the development of space transportation systems and multi-disciplinary space-based systems including consideration of the man machine interface. The group also considers the interrelationships between such systems and their payloads in support of space flight missions. The current chairman is Professor Courtland D. Perkins. There are presently seven (7) members.

For further information regarding the meeting, please contact Mr. Daniel Nebrig, Executive Secretary to the Space Systems Committee on 202/755–2453, or Ms. Rose M. Lovelace, Executive Staff Assistant to the Associate Administrator for Space Flight, National Aeronautics and Space Administration, Washington, D.C. 20546, on 202/755–6919.

The agenda for the meeting is as follows:

September 20, 1976	*Topic*
9:00 a.m.–9:45 a.m.	Opening Remarks—(Purpose: Introductory Remarks.)
9:45 a.m.–10:00 a.m.	Space Transportation System (STS) Operations Overview — (Purpose: To present a current overview on STS Operations.)
10:00 a.m.–11:00 a.m.	Transition from Expendable Launch Vehicles to Space Shuttle — (Purpose: To obtain comments and suggestions on transition plans from expendable launch vehicles to Shuttle.)
11:00 a.m.–12:30 p.m.	Space Shuttle Program Overview including Space Shuttle Main Engine (SSME) Subsynchronous Whirl — (Purpose: To present current overview on Space Shuttle and to obtain comments and recommendations on the SSME rotor whirl situation.)
1:30 p.m.–3:00 p.m.	Orbiter Avionics Software Review—(Purpose: To continue discussions from the last meeting on computer software and to receive recommendations and suggestions.)
3:00 p.m.–4:00 p.m.	Planning for Approach and Landing Test (ALT) Program — (Purpose: To advise status of planning for ALT and to receive comments and recommendations.)
4:00 p.m.–5:00 p.m.	External Tank (ET)/Orbiter Interface — (Purpose: To discuss interface between the Orbiter and External Tank.)
5:00 p.m.	Adjourn.

September 21, 1976	*Topic*
9:00 a.m.–10:30 a.m.	General Discussion—(Purpose: To discuss issues and recommendations from the meeting.)
10:30 a.m.–5:00 p.m.	Tour of the On-Site Hardware and Facilities at Rockwell International, Downey, Rocketdyne, and Palmdale — (Purpose: To physically observe and review status of on-site Space Shuttle hardware and facilities.)
5:00 p.m.	Adjourn.

WILLIAM W. SNAVELY,
Assistant Administrator for DoD and Interagency Affairs.

AUGUST 24, 1976.

[FR Doc.76-25269 Filed 8-27-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ASTRONOMY, SUBPANEL MEETING ON OPTICAL AND INFRARED ASTRONOMY

Open Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Astronomy Advisory Subpanel Meeting on Optical & Infrared Astronomy.

Date: September 17–18, 1976.

Time: 9:00 AM.

Place: Steward Observatory, Room 108, University of Arizona, Tucson, Arizona 85721.

Type of meeting: Open—September 17 (9:00 AM–5 PM). September 18 (9:00 AM–3 PM/Adjourn).

Contact: Dr. Peter A. Strittmatter, Steward Observatory, University of Arizona, Tucson, Arizona 85721. 602 884–1784 or, Dr. James P. Wright, National Science Foundation, Division of Astronomical Sciences, Rm. 615, Washington, D.C. 20550. 202 632–4192.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 212, National Science Foundation, Washington, D.C. 20550.

Purpose: To review NSF programs in optical and infrared astronomy.

Agenda: Will include the following discussion and presentations:

SEPTEMBER 17, 1976

9:00 AM: Discussion of objectives to be accomplished.

10:00 AM: Review of current problems and opportunities in infrared and optical astronomy.

12 Noon: Lunch.

1:00 PM: Review of current problems and opportunities in infrared and optical astronomy (continued).

3:00 PM: Discussion of problems, alternatives, and solutions in the operation of groundbased observatories.

SEPTEMBER 18, 1976

9:00 AM: Discussion and review of prospective major new observatory facilities, their need and priority.

12 Noon: Lunch.

1 PM: Outline draft of recommendations emanating from this meeting.

Dated: August 25, 1976.

BECKY WINKLER,
Acting Committee Management Officer.

[FR Doc.76-25357 Filed 8-27-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-73-1]

BABCOCK & WILCOX

Denial of Petition for Rulemaking

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has denied a petition for rulemaking sub-

mitted by letter dated November 10, 1975; by Babcock & Wilcox (B&W), 609 North Warren Avenue, Apollo, Pennsylvania. A notice of filing of petition, Docket No. PRM–73–1, was published in the FEDERAL REGISTER on January 20, 1976 (41 FR 2871). Interested persons were invited to submit written comments or suggestions on the petition. Letters from Transnuclear, Inc. and Westinghouse Electric Corporation were received which supported the petition.

B&W petitioned the Commission to amend its regulations 10 CFR Part 73, to (1) change the term "special nuclear material" to "strategic special nuclear material" wherever the term appears; (2) add a new paragraph to § 73.2 defining "strategic special nuclear material"; and (3) replace the phrase "either uranium–235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium–233, or plutonium, or any combination of these materials which is 5,000 grams or more computed by the formula, grams=(grams contained U–235) +2.5 (grams U–233+grams plutonium)" with the term "strategic special nuclear material" wherever the phrase appears.

The petitioner stated that the requested changes would clarify the contents and reading of 10 CFR Part 73 and that the use of the term "strategic special nuclear material" instead of "special nuclear material" would provide a clear line of demarcation between special nuclear material that must be protected by security measures and nuclear material that does not fall under the requirements of 10 CFR Part 73. The term "special nuclear material" is used in 10 CFR Part 73 in its statutory meaning which is, of course, not restricted to strategic quantities of special nuclear material. Although most of the sections in Part 73 apply to persons who possess strategic quantities of special nuclear material, other sections of Part 73 apply to substrategic amounts. For example, 10 CFR 73.1(B)(3) and 73.32, Shipment by Air, cover lesser quantities: (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium–233, or (2) 350 grams of uranium–235 (contained in uranium enriched to 20 percent or more of the U–235 isotope). The recommended change would leave the status of these substrategic quantities in doubt. Likewise, Sections 73.70 and 73.71, which require records to be kept and reports on theft to be made by Part 73 licensees, would be ambiguous with regard to those sub-strategic quantities.

While for these reasons, the specific recommendation made by Babcock & Wilcox has not been adopted, the Commission is engaged in a thorough reassessment of its safeguards rules and the question of more specific differentiation between various types of special nuclear material is being given close attention. Any proposed changes will be the subject of later notice of proposed rulemaking.

In view of the foregoing, the Commission has denied the petition for rulemaking filed by Babcock & Wilcox on November 10, 1975. Copies of the petition for rulemaking, the comments thereon, and the Commission's letter of denial are available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

For the Nuclear Regulatory Commission.

Dated at Washington, D.C. this 24th day of August, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76–25393 Filed 8–27–76;8:45 am]

[Docket Nos. 50–443, 50–444]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 & 2)

Notice of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of August 24, 1976, oral argument on the motion of the New England Coalition on Nuclear Pollution to suspend the construction permits for the Seabrook plant is calendared for 10:00 a.m., Wednesday, September 8, 1976 in the Nuclear Regulatory Commission Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

Dated: August 24, 1976.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.76–25394 Filed 8–27–76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of request for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 24, 1976 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, guide for interviews with unfunded investigators, NIH–OD–9, single-time, faculty of medical schools, Human Resources Division, Reese B. F., 395–3532.

National Center for Education Statistics, National Longitudinal Study of the High School Class of 1972—third follow-up questionnaire, NCES–2367–5, single-time, National Sample of High School Seniors of 1972, Kathy Wallman, 395–6140.

Office of Education, Indian Student Enrollment Certification, OE–506, annually, LEA's, SEA's, Kathy Wallman, 395–6140.

Health Resources Administration, Health Professions and Nursing Student Loan Repayment Programs (3 forms), on occasion, nurses and health professions, lenders, employers, Lowry, R. L., 395–3772.

Public Health Service:

Report of Construction Progress and Claim for Cost Reimbursement, other (see SF–83), Health Professions Schools and Research Institutions, Lowry, R. L., 395–3772.

Annual Evaluation of the Education and Training in Team Programs, annually, team program administrator's, students and faculty, Human Resources Division, Reese, B. F., 395–3532.

Office of Human Development, Program Progress Review Report, quarterly, tribal governments; Indian urban centers, Lowry, R. L., 395–3772.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, High Crime Area Survey, Series 2300 (8–76), single-time, local criminal justice planning units in jurisdictions of 250,000 or more, George Hall, 395–6140.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service: Statistical Sampling and Reporting of Review Findings, QC program (food stamp program), FNS–247–1, 2, 3 FNS–248, semi-annually, state agencies, Human Resources Division, Warren Topelius, 395–3532.

Law Enforcement Assistance Administration, High Crime Area Survey, series 2300 (8–76), single-time, local criminal justice planning units in jurisdictions of 250,000 or more, George Hall, 395–6140.

Household Data Sheet (Food stamp program), FNS–245, monthly, food stamp participants, applicants and state agencies, Human Resources Division, Warren Topelius, 395–3532.

DEPARTMENT OF COMMERCE

Bureau of Census, Privacy and Confidentiality Opinion Survey, Privacy and Confidentiality Objective Survey, PCS–100, 200, single-time, national probability sample of households, Maria Gonzalez, 395–6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Framingham Heart Study-Senile Dementia and Functional Disability, ISNIH–HL–22, single-time, persons aged 55–85 in Framingham, Mass., Richard Eisinger, 395–6140.

Alcohol, Drug Abuse and Mental Health Administration, Behavior Checklist, single-time, Households in D.C. metropolitan area, Richard Eisinger, 395–6140.

Health Resources Administration, Influenza Supplemental Questionnaire to the 1976 Health Interview, NCHS 1014, other (see SF–83), sample of households in general population, George Hall, 395–6140.

EXTENSIONS

DEPARTMENT OF COMMERCE

Economic Development Administration, Application for Working Capital Guarantee, ED 203, on occasion, banks or other commercial/individual lenders, Lowry, R. L. 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration, Migrant Hospitalization Demonstration Program Referral Form, HSA-T1, on occasion, clients of migrant health centers requiring hospitalization, Lowry, R. L. 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-25414 Filed 8-27-76;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 20, 1976 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received: the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Questionnaire for Sub-Regional Study of Citizen Attitudes Toward Geothermal Energy, single-time, individuals and sector interviews: 3 counties, George Hall, Maria Gonzalez, 395-6140.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Photocopying Characteristics Survey Forms: Volume LOG, Characteristics Form, ILL Borrowing Form, single-time, sample of academic, federal, public and special libraries, Kathy Wallman, 395-6140.

Photocopying Characteristics Survey Forms—Screening Form, single-time, sample of academic, federal, public and special libraries, Kathy Wallman, 395-6140.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

Survey of Productivity and Human Resource Development, single-time, personnel managers private sector, Arnold Strasser, 395-5867.

DEPARTMENT OF AGRICULTURE

Farmer Cooperative Service, Questionnaire on Transportation by Farmer Cooperatives, single-time, Roye L. Lowry, 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Survey Questionnaires for HUD Residential Solar Heating and Cooling Demonstration Program, other (see SF-83), HUD demonstration participants, community and veterans affairs, Milo Sunderhauff, 395-3532.

DEPARTMENT OF LABOR

International Labor Affairs, Questionnaire for Producers of Hanging Planters, ILAB-79, single-time, producers of hanging planters, Laverne Collins, 395-5867.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Survey Questionnaire "Collection of a Disaggregate Travel Demand Dataset," single-time, sample of households in the Baltimore area, Arnold Strasser, 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Financial Statement, 26-6807, on occasion, borrower, Warren Topelius, 395-5872.

Matured Endowment Notification, 29-5767, on occassion, insured veteran, Warren Topelius, 395-5872.

VA Report of Nursing Home Care, 10-1204-B, monthly, community nursing homes, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service, Veterinarian's Report of Excused Horse, VS-19-4, on occasion, Doctors of Veterinary Medicine—Designated Horse Show Judges, Roye L. Lowry, 395-3772.

EXTENSIONS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Personal History Statement, personal background information, ERDA-324, 324A, on occasion, U.S. ERDA and contractor employees, Roye L. Lowry, 395-3772.

RAILROAD RETIREMENT BOARD

Employee Registration, CER-1, on occasion, railroad employers, Warren Topelius, 395-5872.

Application for Childs Insurance Annuity—Full-Time Student, AA-19S, on occasion, annuity applicant, Warren Topelius, 395-5872.

Employer's Supplemental Report of Service and Compensation, G-88E, on occasion, railroad employers, Warren Topelius, 395-5872.

Application for Child's Insurance Annuity, AA-19, on occasion, annuity applicant, Warren Topelius, 395-5872.

Annuitant's Report About Dependents, AA-1E, on occasion, Railroad Act annuitants, Warren Topelius, 395-5872.

DEPARTMENT OF DEFENSE

National Security Agency, COMSEC Material Report, SF153, other (see SF-83), Roye L. Lowry, 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-25413 Filed 8-27-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 09/14-0085]

BANCAL CAPITAL CORP. (NOW OCEANIC CAPITAL CORP.)

Approval of Application for Transfer of Control of a Licensed Small Business Investment Company

Pursuant to the provisions of § 107.701 of the Small Business Administration's (SBA) Rules and Regulations (13 CFR 107.701 (1976)), a Notice of filing of an Application for Transfer of Control of BanCal Capital Corporation (BanCal), 845 South Figueroa Street, Los Angeles, California 91342, was published in the FEDERAL REGISTER on May 26, 1976 (41 FR 21531). Two Directors whose names were listed in the Notice, Messrs. Eijiro Hoashi and Yoshiyasu Iwasa, will not serve as Directors.

Interested parties were invited to send their written comments to SBA on the proprosed transfer of control. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby approves the transfer of control of BanCal Capital Corporation and simultaneously the name change to Oceanic Capital Corporation, effective August 16, 1976. In connection with the transfer of control, the office of the licensee will be moved to 300 Montgomery Street, Suite 908, San Francisco, California 94104.

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

Dated: August 20, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-25336 Filed 8-27-76;8:45 am]

[License No. 09/12-0002]

CONTINENTAL CAPITAL CORP.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Continental Capital Corporation (CCC), 555 California Street, San Francisco, California 94104, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), has filed with the Small Business Administration (SBA) an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1976)), for approval of a conflict of interest transaction.

CCC will purchase 250,000 shares of convertible preferred stock of Baron Data Systems (Baron), 2230 Livingston Street, Oakland, California 94606, for $2.00 per share. Upon conversion of the preferred stock, CCC would own 31.25 percent of Baron. The transaction falls within the purview of § 107.1004(b)(1) of the regulations and requires prior written approval by SBA because Mr.

Charles G. Davis, Jr., is a director (resigned this position on July 16, 1976, but is considered an associate of CCC for six months after resignation) and stockholder of CCC and the president, a director, and a stockholder of Baron. Assuming consummation of the transaction described herein and conversion of the CCC preferred stock, Mr. Davis would initially own 38.8 percent of Baron's outstanding common stock.

Notice is hereby given that any person may, not later than 15 days from the date of this Notice, submit to SBA in writing, comments on the proposed transaction. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in San Francisco, California.

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

Dated: August 19, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-25337 Filed 8-27-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 132]

ASSIGNMENT OF HEARINGS

AUGUST 25, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 33 (Sub-No. 9), Union Pacific Railroad Company Abandonment Between Arnold and Stapleton, Nebraska In Custer and Logan Counties, Nebraska, now assigned November 1, 1976, at North Platte, Nebr. is postponed to December 6, 1976 (1 week), at North Platte, Nebr.; in a hearing room to be later designated.

MC-C-9025, Kane Transfer Company-v-Jacobs Transfer, Inc., now assigned October 5, 1976 at Washington, D.C., is postponed to October 19, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115730 Sub 14, The Mickow Corp., now being assigned November 30, 1976 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 114211 Sub 257, Warren Transport, Inc., now being assigned December 1, 1976 (3 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 129387 (Sub-No. 22), Bill Payne, d/b/a Bill Payne Trucking Company, now being assigned November 30, 1976 (2 days) at San Francisco, California; in a hearing room to be later designated.

MC 138274 (Sub-No. 29), Shippers Best Express, Inc., now being assigned December 2, 1976 (2 days) at San Francisco, California; in a hearing room to be later designated.

MC 129032 (Sub-No. 19), Tom Inman Trucking, Inc., now being assigned December 6, 1976 (1 week) at San Francisco, California; in a hearing room to be later designated.

MC 138018 (Sub-No. 28), Refrigerated Foods, Inc., now being assigned December 13, 1976 (2 days) at Seattle, Washington; in a hearing room to be later designated.

MC 114730 (Sub-No. 4), V. Van Dyke, d/b/a Van Dyke Truck Lines, now being assigned December 15, 1976 (3 days) at Seattle, Washington; in a hearing room to be later designated.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc.76-25361 Filed 8-27-76;8:45 am]

[Ex Parte No. 330]

INCREASED FREIGHT RATES—WEST AND INTERTERRITORIAL—1976

Authority To File Master Tariff

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 25th day of August, 1976.

It appearing, That by petition and verified statements filed August 20, 1976, the railroads listed in Appendix I of the petition and certain water and motor carriers having joint rates with the Appendix I railroads, request the Commission to institute an investigation into the adequacy of freight rates and charges of all railroad common carriers within the United States; to make all such railroad common carriers respondents therein; and to authorize and permit increases in freight rates and charges primarily within the West, and from, to, and within all territories of 5 percent, effective September 20, 1976, to offset labor cost increases and increases in the cost of materials, supplies, and certain other items, subject to exceptions and hold-downs set forth in Appendix II of the petition;

It further appearing, That petitioners seek permission to make the proposed increases effective September 20, 1976, subject to the condition that refunds shall be made in the event that, after such investigation as the Commission deems necessary, no increase or a lesser increase than that requested in the present petition is authorized, and they seek entry of an order modifying all outstanding Commission orders to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges, and the entry of appropriate orders under Sections 4 and 6 of the Interstate Commerce Act;

It further appearing, That petitioners have filed and served 22 verified statements constituting their evidential case pursuant to the requirements set forth in Procedures Governing Rail Carrier General Increase Proceedings, 49 CFR 1102, including certain financial data suggested in Appendix B of the report and order in Ex Parte No. 281, Increased Freight Rates and Charges, 1972, 341 I.C.C. 288;

It further appearing, That petitioners have submitted data of the type called for in Ex Parte No. 290 (Sub-No. 1), Procedures—Rail Car General Increase Proceedings, 349 I.C.C. 22, namely detailed information on estimated revenues which would have been obtained had the last authorized increase been fully applied, and the actual total increase in revenues realized by application of the last authorized general increase;

It further appearing, That petitioners have given notice of the petition and have furnished data to the public in compliance with Ex Parte No. 286, Notice of Increases in Frt. Rates and Pass. Fares, 349 I.C.C. 741;

It further appearing, That petitioners contend that the requested increases will have no significant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail;

It further appearing, That petitioners have submitted information of the type called for in Ex Parte No. 55 (Sub-No. 4), Revised Guidelines for the Implementation of the National Environmental Policy Act of 1969, 352 I.C.C. 451, and 49 CFR 1108, namely a supplemental evaluation of environmental considerations vis-a-vis petitioners' proposal herein;

It further appearing, That any person or persons believing that the requested increases, if allowed to become effective, would have a significant impact upon the quality of the human environment are hereby invited to comment upon this matter in the protests or verified statements authorized to be filed pursuant to this order, and that environmental matters and requirements of the National Environmental Policy Act of 1969 will be fully considered by the Commission in any subsequent action on the merits of the requested general increases;

And it further appearing, That by Special Permission Order No. 77-600 served herewith, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition, to become effective upon not less than 30 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act, and modifying outstanding orders to the extent necessary to permit that filing, and good cause appearing therefor;

It is ordered, That all common carriers by railroad be, and they are hereby, made respondents to this proceeding.

It is further ordered, That pursuant to the special permission authority granted this date, the schedules shall be published and filed upon not less than 30 days' notice effective not earlier than September 27 nor later than November 1,

1976,[1] subject to protest and possible suspension by the Commission, said schedules to contain an approprite refund provision. Protests and/or verified statements shall be filed on or before September 14, 1976, in accordance with procedures hereinafter set forth;

It is further ordered, That any person opposing or wishing to comment on the proposed 5 percent increase in rates and charges shall file and serve verified statements, complaints, and protests,[2] as provided below, on or before September 14, 1976.

(a) The verified statements shall contain all evidence relevant and material to the issues in this proceeding which the parties desire to have considered by the Commission and will be considered as submitted in evidence along with the verified statements of the respondents, as a basis for a decision by the Commission on the merits. Any submission on asserted environmental impact shall be set forth under an appropriate subheading in order to identify properly such subject matter.

(b) Verified statements may include arguments in support of an affiant's position but such argument shall be set forth in a separate section of the document containing the verified statement. If desired, such argument may be contained in a separate document simultaneously filed and served. Request for oral argument, if any, will be disposed of by further order of the Commission.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 50 and Form No. 6 of the Commission's General Rules of Practice (See 49 CFR 1100.50 and Appendix B, Form No. 6, to 49 CFR 1100). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows:

The original and 24 copies of each such document for the use of the Commission shall be sent to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, except that a lesser number of copies may be filed upon showing of good cause.

One copy shall be served upon the representative of the petitioning railroads, Harry L. DeLung, Jr., Esq., 527 American Railroads Building, 1920 "L" Street, N.W., Washington, D.C. 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 25 copies upon the railroads' representative.

In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties, as herein provided, and verified statements not so served will not be considered.

(f) Verified statements and arguments by persons opposed to the proposed increases in rates and charges shall include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

It is further ordered, That on or before September 20, 1976, the respondents shall file with the Commission and serve upon opposing parties such replies to protests or other pleadings seeking suspension, and rebuttal evidence on the merits of the proceeding as they desire to present. Such evidence shall be in the form and served in the same manner as the opening statements filed in accordance with the regulation published in 49 CFR 1102, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. Such statements shall, however, be furnished to other interested parties upon request.

It is further ordered, That the request for fourth-section relief will be considered following the filing of protests and statements in opposition and replies thereto;

And it is further ordered, That in all other respects the petition be, and it is hereby, denied.

SPECIAL PERMISSION No. 77-600

It is ordered, for good cause shown:

1. All railroads, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents, be, and they are hereby, except as otherwise provided herein, authorized to depart from the Commission's tariff publishing rules in Tariff Circular No. 20 (49 CFR 1300), when publishing and filing tariffs, and tariff amendments, to become effective upon not less than 30 days' notice to the Commission and the public but not earlier than September 27, 1976, nor later than November 1, 1976, providing for increased rates and charges as set forth in the petition:

(a) By publishing and filing a master tariff of increased rates and charges, and supplements thereto, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increase resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with ____ percent interest.[3]

In the event any increase resulting from the application of this tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with ____ percent increase.[3]

The master tariff shall be indicated to expire on interstate and foreign commerce with a date not beyond one year after the effective date, which may not be extended or cancelled except upon specific authorization of this Commission, and all relief herein expires with that date. The master tariff must initially contain all provisions for application of the increases (including provisions for no increase, part of the overall proposal) following which (unless suspended) any provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff amendment.

(b) By publication and filing of a connecting link suplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs), provided each copy officialy filed is hand marked in the appropriate places as to the supplement number and the I.C.C. number of the tariff it supplements.

(c) The master tariff and connecting link supplements issued and filed hereunder shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specificially identified in the connecting link supplements.

(d) The provisions of connecting link supplements that apply in connection with the master tariff authorized may be brought forward, upon statutory notice, as numbered items, replacing the maintenance of separate connecting link supplements, subject to the restriction in (c) above.

(e) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) herein.

[1] In the event the tariff is not filed prior to August 29, 1976, the due date specified for filing of protests and vertified statements will be extended to a date 13 days prior to the effective date. Replies will be due 6 days thereafter.

[2] Section 202 of the Railroad Revitalization and Regulatory Reform Act of 1976 specifically requires the filing of verified complaints seeking suspension of proposed rate changes.

[3] The interest rate in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See Section 202 of the Railroad Revitalization and Regulatory Reform Act of 1976.

(f) By publication of provisions in tariffs or amendments thereto subjecting rates and charges therein to the provisions of the master tariff, subject to the restriction in (c) above.

2. (a) The master tariff, as amended and all other tariffs and amendments to tariffs, that employ the short-form methods authorized herein shall bear the notation:

Form of publication authorized, I.C.C. permission No. 77–600.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges hereunder shall bear a notation reading:

Publication made in accordance with I.C.C. permission No. 77–600.

3. Connecting-link supplements authorized herein shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed hereunder shall not be amended except to correct errors and to comply with findings and orders of the Commission, except when specifically authorized to do so. The terms of rule 9(e) (49 CFR 1300.9(e)) are not waived as to supplements to the master tariff.

5. Outstanding orders of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, Increased Freight Rates and Charges, 1972, 341 I.C.C. 288, 336, and Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, 188. The rate increase table on grain shall progress in one-half cent increments.

It is further ordered, That future orders and notices of the Commission in this proceeding will be sent only to those participating as herein provided, and those interested persons who specifically request to be included on the service list.

And it is further ordered, That notice of this order be given by serving a copy thereof on each party to the proceeding in Ex Parte No. 318, to the Governor and public utilitiy regulatory body of each State, the Environmental Protection Agency, the Special Assitant to the President for Consumer Affairs, and 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 for publication in the FEDERAL REGISTER.

By the Commission (Commissioners Murphy, Hardin, and O'Neal did not participate).

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc.76-25363 Filed 8-27-76;8:45 am]

[Notice No. 111]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 25, 1976.

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2368 (Sub-No. 57TA), filed August 18, 1976. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: William T. Marshburn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils, animal oil products, by-products and blends*, in bulk, in tank vehicles, between Portsmouth, Va., on the one hand, and, on the other, points in Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia and the District of Columbia, for 180 days. Supporting shipper: Crowder M. Epps, Traffic Manager, Murro Chemical Co., Inc., 910 Benjamin Fox Pavilion, Jenkintown, Pa. 19046. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 16903 (Sub-No. 43TA), filed August 16, 1976. Applicant: MOON FREIGHT LINES, INC., 120 W. Grimes, P.O. Box 1275, Bloomington, Ind. 47401. Applicant's representative: Donald W. Smith, Suite 2465—One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from the sawmill facilities of Empire Wood Company, in Martin and Monroe Counties, Ind., to Hawesville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Empire Wood Company, R. R. 1, Williams, Ind. Send protests to: Fran Sterling, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, Room 429, 46 East Ohio St., Indianapolis, Ind. 46204.

No. MC 30887 (Sub-No. 226TA), filed August 18, 1976. Applicant: SHIPLEY TRANSFER, INC., 1550 E. Patapsco Ave., P.O. Box 3483, Baltimore, Md. 21225. Applicant's representative: William B. Eckels (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid natural latex*, in bulk, in tank vehicles, from Baltimore, Md., to Kingstree, S.C., for 180 days. Supporting shipper: C. C. Harless, Manager, Traffic Service, The Goodyear Tire & Rubber Company, 1144 E. Market St., Akron, Ohio 44316. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Bldg., Baltimore, Md. 21201.

No. MC 71902 (Sub-No. 84TA), filed August 18, 1976. Applicant: UNITED TRANSPORTS, INC., 4900 N. Santa Fe, P.O. Box 18547, Oklahoma City, Okla. 73118. Applicant's representative: John R. Sims, Jr., 915 Penn Bldg., 425–13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New motor vehicles*, in initial movements, in truckaway service, from the plantsite or facilities of the Chrysler Corporation, at or near Belvidere, Ill., to points in Kansas and Kansas City, Mo., Commercial Zone, for 180 days. Supporting shipper: Chrsyler Corporation, P.O. Box 1976, Detroit, Mich. 48231. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 83539 (Sub-No. 437TA), filed August 18, 1976. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products and millwork*, from the plantsite and facilities of Willamette Industries, Inc., and Brooks-Willamette Corp., at Sweet Home, Foster, Lebanon, Griggs, Springfield, Albany, Millersburg, Dallas, Wilsonville, Redmond and Bend, Oreg., to points in North Dakota, South Dakota, Minnesota, Nebraska, Michigan, Illinois, Indiana and Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Willamette

Industries, Inc., P.O. Box 907, Albany, Oreg. 97321. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 98000 (Sub-No. 2TA), filed August 18, 1976. Applicant: MUNTER'S DELIVERY, INC., 500 Michigan Ave., Buffalo, N.Y. 14203. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, limited to individual articles not exceeding 100 lbs. in weight, moving as shipments not exceeding 500 lbs. in weight from one consignor to one consignee in a single day, on bills of lading of surface, interstate freight forwarders, between points in (1) Niagara Erie, Chautauqua, Orleans, Genesee, Wyoming, Cattaraugus, Monroe, Livingston, Alleghany, Wayne, Ontario, Steuben, Cayuga, Seneca, Yates, Schuyler, Chemung, Oswego, Onodaga, Cortland, Tompkins, Tioga and Broome Counties, N.Y.; (2) Erie, Crawford, Mercer and Venango Counties, Pa.; and (3) Geauga, Ashtabula, Trumbull, Portage, Mahoning, Cuyhoga and Lake Counties, Ohio, for 180 days. Supporting shipper: American Delivery Systems, Inc., 300 E. Seven Mile Road, Detroit, Mich. 48203. Send protests to: George M. Parker, District Supervisor, 910 Federal Office Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 106674 (Sub-No. 205TA), filed August 16, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Standard wheat Middlings*, from Indianapolis, Ind., to points in Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Acme-Evans Company, Division of General Grain, Inc., 902 West Washington Ave., Indianapolis, Ind. 46204. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 107515 (Sub-No. 1020TA), filed August 18, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and/or warehouse facilities of Kraftco Corporation, at Champaign, Ill., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Delaware, Virginia, Maryland, and the District of Columbia, restricted to the transportation of traffic originating at the named origin points and destined to the named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraftco Corp., 500 Peshtigo Ct., Chicago, Ill. 60609. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 109821 (Sub-No. 48TA), filed August 19, 1976. Applicant: H. W. TAYNTON COMPANY, INC., 40 Main St., Wellsboro, Pa. 16901. Applicant's representative: Dewey Whiteford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel cans and tin cans and parts thereof*, from the facilities of the Borden Co., in Lyons, N.Y., to Allentown, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Borden, Inc., Can Operations, Borden Foods Division, Lyons, N.Y. 14489. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 113666 (Sub-No. 108TA), filed August 18, 1976. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: William H. Shawn, 1730 M St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry acrylic resin*, from ports of entry on the International Boundary line between the United States and Canada, located in New York and Michigan, to Buffalo, N.Y.; Sheffield, Mass.; Anderson, Ind.; Perkasie, Pa.; Edison and Linden, N.J.; Chicago and Franklin Park, Ill.; Saline, Mich.; Addison, Tex.; and Sandusky, Columbus and Xenia, Ohio, for 180 days. Supporting shipper: CY/RO Industries, a partnership of Cyanamid Plastics and Rohacryl, Inc., Berdan Ave., Wayne, N.J. 70470. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 211 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 117119 (Sub-No. 592TA), filed August 17, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice and fruit drinks*, chilled, not frozen, in paper inner cartons, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from Anaheim, Calif., to points in Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Coca-Cola Company, Foods Division, P.O. Box 2079, Houston, Tex. 77001. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 119118 (Sub-No. 52TA), filed August 16, 1976. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, R.D. No. 4, Latrobe, Pa. 15650. Applicant's representative: Lawrence C. Maston (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, *and empty used malt beverage containers*, on return from Baltimore, Md., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carling National Breweries, Inc., 3730 Dillon St., Baltimore, Md. 21224. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Fedrael Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 119118 (Sub-No. 53TA), filed August 16, 1976. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, R.D. No. 4, Latrobe, Pa. 15650. Applicant's representative: Lawrence C. Maston (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, *and empty used malt beverage containers*, on return from Rochester, N.Y., to Hainesport, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Trentacoste Brothers, Inc., P.O. Box 268, Hainesport, N.J. 08036. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 123407 (Sub-No. 323TA), filed August 18, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products, and millwork* (except commodities in bulk), from the facilities of Williamette Industries, at Dallas, Millersburg, Albany, Lebanon, Foster, Sweet Home and Springfield, Oreg., and the facilities of Brooks-Williamette Corporation, at Bend, Redmond and Wilsonville, Oreg., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Williamette Industries, Inc., P.O. Box 907, Albany, Oreg. 97321. Send protests to: J. H. Gray, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 128841 (Sub-No. 12TA), filed August 18, 1976. Applicant: MUR-GAIL, INC., 301 North Fifth St., Minneapolis, Minn. 55403. Applicant's representative: Samuel Rubenstein (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printing ink*, in bulk, in tank vehicles, (1) from Minneapolis, Minn., to points in Arkansas, Colorado, Minnesota, Montana, Oklahoma, Texas and Wyoming; and (2) from Omaha, Nebr., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming, under a continuing contract with Northern Printing Ink Corp., for 180 days. Supporting shipper: Northern Printing Ink Corp., 8360 10th Ave., North, Minneapolis, Minn. 55427. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 133424 (Sub-No. 5TA), filed August 18, 1976. Applicant: AARON COPE, doing business as AARON COPE TRUCKING CO., P.O. Box 429, Old Morrison Road, McMinnville, Tenn. 37110. Applicant's representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, (1) from Chattooga County, Ga., to Henegar, Jamestown and Leesburg, Ala., and their commercial zones; and (2) from Henegar, Ala., to Jamestown and Leesburg, Ala., and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lookout Mountain Coal Company, Box 703, Franklin, Tenn. 37064. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 136315 (Sub-No. 10TA), filed August 16, 1976. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, poles, piling, pallets, timbers and cross-ties*, treated and untreated, from points in Mississippi, to points in Kansas, Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 142287 (Sub-No. 1TA), filed August 18, 1976. Applicant: TOM YOUNKIN, doing business as TOM YOUNKIN, INC., 821 Sandusky St., Ashland, Ohio 44805. Applicant's representative: Tom Younkin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex and liquid plastic* (except in bulk, in tank vehicles), between Ashland, Ohio on the one hand, and, on the other, Dalton, Ga.; Wichita, Kans.; St. Louis, Mo.; Trenton, N.J.; points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan (lower Peninsula), New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia and Wisconsin, under a continuing contract with General Latex & Chemical Corporation of Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: General Latex & Chemical Corporation of Ohio, Cleveland Road, Ashland, Ohio 44805. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 142321 (Sub-No. 1TA), filed August 12, 1976. Applicant: WESTSIDE TRUCKING, INC., 1508 Coalinga St., P.O. Box 864, Coalinga, Calif. 93210. Applicant's representative: Lowell E. Baker (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos, shorts or waste*, from minesite of Atlas Asbestos Co., located approximately 32 miles northwest of Coalinga, Calif., and Coalinga, Calif., to points in Coalinga, Fresno, Hanford, Port of Stockton, Alameda, Oakland, Richmond, San Francisco, Long Beach, San Pedro, Terminal Island and Wilmington, Calif., under a continuing contract with Wheeler Properties, Inc., d/b/a Atlas Asbestos Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Wheller Properties, Inc., d/b/a Atlas Asbestos Co., S. 6th and West Gleen Ave., Coalinga, Calif. 93210. Send protests to: Claud W. Reeves, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 142353TA, filed August 16, 1976. Applicant: ADAMS SAND CO., INC., Highway 90, General Delivery, Mossy Head, Fla. 32434. Applicant's representative: Edward Adams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *High calcium lime and dolomite;* and (2) *Fertilizer;* (1) from Marianna and Mossy Head, Fla., to points in Alabama and Georgia; and (2) from Bottomdale and Pensacola, Fla., to points in Alabama and Georgia, for 180 days. Supporting shippers: Green Valley Lime Co., Inc., P.O. Box 1505, Marianna, Fla. 32446. Adams Sand Co., Inc., General Delivery, Mossy Head, Fla. 32434. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 142354TA, filed August 18, 1976. Applicant: ALL-WAYS TRUCKING CO., INC., 7737 Hampton Blvd., Norfolk, Va. 23505. Applicant's representative: Henry U. Snavely, 410 Pine St., Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, in containers having a subsequent movement by water, from the facilities of the Hoerner Waldorf Corporation, at Roanoke Rapids, N.C., to Norfolk, Va., and (2) *Empty containers*, from Norfolk, Va., to the facilities of the Hoerner Waldorf Corporation, at Roanoke Rapids, N.C., under a continuing contract with the Hoerner Waldorf Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hoerner Waldorf Corporation, Alonzo R. Harris, Mill Division, Plant Transportation Supervisor, P.O. Box 580, Roanoke Rapids, N.C. 27870. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

By the Commission.

GORDON H. HOMME, Jr.,
Acting Secretary.

[FR Doc.76–25362 Filed 8–27–76;8:45 am]

[Notice No. 21]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 30, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC–FC–76708. By application filed August 16, 1976, EAST COAST TRUCKING, INC., 90 Rentell Road, Hamden, CT 06514, seeks temporary authority to transfer the operating rights of PITTSFIELD FREIGHT LINES, INC., P.O. Box 824, Stockbridge, MA 01262, under Section 210a(b). The transfer to EAST COAST TRUCKING, INC., of the operating rights of PITTSFIELD FREIGHT LINES, INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.76–25364 Filed 8–27–76;8:45 am]

federal register

MONDAY, AUGUST 30, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development

■

DEVELOPMENTAL DISABILITIES PROGRAM

Proposed Policies and Procedures Regarding Grants to States, Nonprofit Agencies, Organizations, Colleges and Universities

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development

[45 CFR Parts 1385, 1386, 1387]

DEVELOPMENTAL DISABILITIES PROGRAM

Proposed Policies and Procedures Regarding Grants to States, Nonprofit Agencies, Organizations, Colleges and Universities

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Assistant Secretary for Human Development with the approval of the Secretary of Health, Education, and Welfare.

The purpose of the proposed regulations is to implement provisions of the Developmental Disabilities Services and Facilities Construction Act of 1970 (Pub. L. 91–517), as amended by the Developmentally Disabled Assistance and Bill of Rights Act of 1975 (Pub. L. 94–103), hereafter referred to as "the Act." The program is administered by the Developmental Disabilities Office, Office of Human Development.

The new Act is designed to assist States to develop a comprehensive plan which will bring together all available resources so that the developmentally disabled may be served in the most effective, efficient way. The new Act does not provide for separate funds to meet all the needs of the target population; rather it establishes the means for accessing the systems already in use for the general population and encourages special adaptations of these generic services. Funds are to be used to fill gaps in existing generic services and to expand the reach of existing services to new groups of individuals.

Other provisions include establishment of the State planning council as the means for accessing and coordinating generic services, for identifying gaps in services, and for planning ways of filling the gaps. State planning council requirements include supervision of the development of the State plan; approval, mointoring, and evaluation of the implementation of the plan; review, to the extent possible, of all plans in the State which relate to programs affecting persons with development disabilities; and submission of regular reports on its activities. The State planning council is required to serve as an advocate for persons with developmental disabilities. The Act calls for the State plan to designate one or more State agencies to administer the State plan.

The Act adds a new program of special projects and a new formula grant program for the protection and advocacy of *individual* rights of the developmentally disabled. Other changes brought about by the new Act include a broadened definition of developmental disabilities; increased emphasis on deinstitutionalization of the developmentally disabled by alternative community placement, where possible, and improvement of institutional services; establishment of a State data base and ongoing evaluation activities; increase in the program focus on urban and rural areas of poverty; and establishment and protection of the rights of persons with developmental disabilities (section 113 of the Act), including implementation of individualized habilitation plans and advocacy of individual rights.

Regulations for the new programs and concepts are herewith included. These regulations have been divided into separate Parts to make clear to the general public which specific regulations apply to the different programs administered by the Developmental Disabilities Office, and include a general part to make it easier for the public to locate those regulatory provisions which apply to all or almost all of the different program areas.

The principal purpose of these regulations is to ensure the continued targeting of funds and resources to developmentally disabled individuals through a national, State, and local partnership. To this end, the goal of the program is to enable States to increase the provision of quality services to persons with developmental disabilities through the designs and implementation of a comprehensive and continuing State plan which makes optimal use of Federal, State, local, and private resources, and assures the rights and dignity of all those being served.

A second, but not secondary, purpose is to specify the rights of the developmentally disabled: That developmentally disabled persons have the right to appropriate treatment, services, and habilitation; that programs should be designed to maximize the developmental potential of the person; and that the Federal Government and the States have an obligation to assure that public funds are not provided in programs which do not deliver appropriate treatment, services, and habilitation or do not meet appropriate minimum standards as specified in the Act.

Certain sections of the Act are not included in these proposed regulations. These parts of the Act direct the Secretary to carry out certain activities which are general and administrative in character and do not directly or immediately affect grantees. Accordingly, regulations are not developed for the amendments which revise the components and functions of the National Advisory Council on Services and Facilities for the Developmentally Disabled, hereafter referred to as the National Advisory Council; the conduct of special studies required by the Act, which will be guided by the general policies and procedures governing such activities, modified, as necessary, by the specific requirements of the law; and the administrative aspects of the special projects authority for projects of national significance. Additional information will be published in the FEDERAL REGISTER from time to time as necessary.

It should be noted that the regulations for formula grants to States and grants to university affiliated facilities are removed from Chapter IV of Title 45 of the Code of Federal Regulations and are relocated in Chapter XIII, which covers all programs administered by the Office of Human Development within the Department of Health, Education, and Welfare.

PART 1385—GENERAL

The purpose of this general part of the regulations is to bring together in one place those provisions which are applicable to the other parts of the regulations. The basis for this is the Department's belief that this will make it easier for members of the public to locate such provisions, and that it will avoid unnecessary duplication which would occur if each of the provisions of general applicability had to be repeated in the other parts of the proposed regulations.

This part sets forth the policies and procedures which apply to all of the subsequent parts, such as definition of terms, grant procedures, and other administrative concerns. Part 1385 essentially follows standard Federal policies and procedures, except where specific differences, such as assurances regarding an evaluation system, are required by the Act.

Section 1385.1 of these regulations is aimed at stating the Department's view of the purposes of the Act and is based on the Department's belief that such an expression clearly sets the ground rules and the context for the rest of the regulations.

Section 1385.2 contains definitions of terms applicable to all of the other parts of the regulations.

Section 1385.3 incorporates the provisions of 45 CFR Part 74 and is based upon the Department's belief that it is advantageous to all concerned to follow uniform administrative requirements and cost principles to avoid or minimize mistakes and misinterpretations of administrative provisions since States are generally familiar with Part 74 requirements.

Sections 1385.4, 1385.5 and 1385.6 incorporate into the regulations provisions contained in the statute itself. The Department believes that these provisions (judicial review, State control of operations, and employment of handicapped individuals) are mandatory and that it is helpful, from the standpoint of clarity, to restate these requirements in the regulations.

Sections 1385.7, 1385.8, 1385.9, and 1385.10 also incorporate provisions contained in the statute. The purpose of restating these requirements (recovery, good cause for other use of facility, cooperative or joint effort between States and agencies, and awards) is to avoid any possibility of oversight by the public about these requirements. The basis of these regulations is the belief that they will help alert public and private agencies and members of the public to the existence of these requirements.

Lastly, § 1385.11, concerning assurances regarding evaluation systems, is also for the purpose of incorporating in the regulations an express, statutory provision. The Department believes it is advisable to make clear that compliance with the requirement for the develop-

ment of an evaluation system is a condition for the receipt of Federal financial assistance under the other parts of the regulations. The purpose of this regulation is to make that point absolutely clear. The Department believes that any condition of Federal financial participation or assistance should be expressly stated in regulations.

PART 1386—FORMULA GRANT PROGRAMS

The purpose of this part of the proposed regulations is to govern the conduct of the Formula Grant Programs and to take cognizance of and implement the changes brought about by the 1975 amendments. Part 1386 is divided into four basic Subparts as described below.

The general provisions of Subpart A, pertaining to State plans, consist of §§ 1386.1 through 1386.4. These regulations are designed to implement the requirements of section 133 of the Act pertaining to State plans, and to define further what that provision requires. The Department believes that these regulations give the greatest assurance that States will, in fact, submit approvable State plans prior to the beginning of the fiscal year, and that the Department will have adequate time to review such submissions properly.

In addition, the Department believes it necessary to make it clear to all States that submission of a State plan at the beginning of a fiscal year is a requirement for Federal financial participation, and that failure actually to submit such a plan will result in the loss of Federal funds for that period of time during which there is no approved State plan in effect.

It is the Department's belief that it is the intention of Congress that the State plan be a viable management tool that reflects the State planning process and the rationale through which expressed needs, priorities, and resource allocations are determined so as to provide the basis for the expenditure of funds under the program. Performance standards, to be issued by the Secretary, will provide criteria for evaluation and approval of the State plan. They may also be used as a tool by the State planning council to develop the State plan.

The Department further believes that Congress has intended that money be paid to States only pursuant to an approved State plan. In the past, some States have failed to submit their plans in a timely manner and this has resulted in a decreased ability on the part of the Department to assure that funds are, in fact, properly paid and properly utilized. Thus, § 1386.2 requires States to submit proposed plans 60 days prior to the fiscal year to which the plan applies. This time period was selected because of the Department's experience that such a time period would be reasonable to allow for review of proposed State plans.

Furthermore, to ensure that States comply with these requirements, this regulation is designed to make it clear that no Federal financial participation will be provided to a State for any period of time during a fiscal year in which an approved State plan is not in effect. The purpose of this regulation is to encourage States to do advance planning, and it is based on the Department's belief that such an approach is necessary to ensure compliance with the statutory requirement for an annual State plan. This position represents a departure from past practice and is believed necessary because several States have, in the past, failed to submit approvable plans until a significant portion of the fiscal year had elapsed.

This subpart also effectuates the amendments to the basic formula grant program which had been in operation for five years and details the requirements which a State must meet in its State plan to participate in the program. These proposed regulations are based on the Department's belief that they best implement key Congressional policies associated with the formula grant programs.

For example, based upon the legislative history, the Department believes that Congress wished to highlight the crucial advocacy role and strengthen the supervisory, planning, and monitoring functions of the State planning councils to meet increased responsibilities effectuated by the 1975 amendments, leaving the actual day-to-day administration of the programs to the designated State agencies. The Department also believes that the regulations in Subpart A accomplish that goal.

The next section under Subpart A is concerned with allotments, Federal share, and payments of Federal money to the States. These provisions, which encompass §§ 1386.10 through 1386.17, essentially are designed to implement various statutory provisions and do not constitute any major innovations brought about by the statute or by interpretations of the statutory provisions. However, particular attention is directed to proposed § 1386.10(b) which defines the need factor referred to in section 132(a) of the Act. The Act itself refers to allotments being made to States on the basis of the population, the extent of need for services and facilities for persons with developmental disabilities, and the financial needs of the respective States. The statute, however, does not define what is meant by "need" and the purpose of this regulation is to do so. It is based upon the advice of the National Advisory Council and represents what the Department believes to be the best approach available at this time based upon information and comments currently before the Agency.

For the first year of the program, the measure of need adopted was the incidence of developmental disability as reflected by the proportion of the population in the State under age 18. This age was substituted for the age 21 factor used in the former mental retardation program formula, because it corresponds to the age criterion in the definition of developmental disabilities in the Act. The data for measuring need utilized after the first year came from the Social Security Disability Applicant Statistics published by the Social Security Administration and updated periodically. The actual data selected are the number of beneficiaries in the State under the Adult Disabled Child Program as an index of relative need of the State for services and facilities for the developmentally disabled. It is the Department's belief that these data are the best that are available. Suggesions for alternative need data, or for definition of need to determine the extent of need for services and faciilties for persons with developmental disabilities for State allocation purposes, are solicited during the comment period.

Further attention is directed to proposed § 1386.14 which relates to nonduplication of funds and which implements section 136 of the Act. This provision differs from preceding provisions due to a change in the law which no longer permits the use of Federal funds for matching even though other Federal legislation allows it:

> In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 133, there shall be disregarded (1) any portion under any provision of law other than section 132, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

This will bring about a change in past Department practice, and funds which had been used in the past for matching will, in some cases, no longer be able to be used in such a manner. An example would be funds provided under the Appalachian Regional Development Act. All questions arising under this regulation will, absent an express reference to this Act in subsequent Federal legislation, be referred to the Department's Office of General Counsel for opinion and/or interpretation.

It should be noted that § 1386.17(a), "Standards for services for persons with developmental disabilities," will be published in the FEDERAL REGISTER upon completion of a special study mandated by the Act.

The next subdivision of Subpart A relates to "State Plan Requirements—Methods of Administration," and includes §§ 1386.20 through 1386.31. These regulations are based on the Department's belief that carrying out the purposes of the Act in this area is best accomplished by incorporating in the regulations the requirements and provisions of the Act, clarifying exactly what the Act requires, and, in the case of § 1386.24, specifying the reports which the Secretary deems necessary in this area for purposes of assuring proper operation of the State plan.

The regulations pertaining to personnel administration, special assistance to poverty areas, use of volunteers, protection of employees' interests, etc., are based strictly on the statute and upon the Department's belief that these essentially straightforward provisions allow the greatest flexibility in carrying out technical matters.

The purpose of § 1386.23 is to restate the statutory requirement that the State plan provide that special financial and technical assistance be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas. The Joint Conference Report No. 94–473 (page 28) notes that Congressional intent is that these regulations define the poverty areas in the manner required by the National Health Planning and Resources Development Act (Pub. L. 93–641.) Regulations implementing this latter Act have not yet been issued by the Department, and under that Act, until the areas can be determined for the entire country, it cannot be determined on a State-by-State basis. Accordingly, in the interim, until regulations are issued for Pub. L. 93–641, the Department in only requiring that State plans provide for this special financial and technical assistance to areas of urban or rural poverty.

This provides States the maximum flexibility possible until such time as Pub. L. 93–641 regulations are issued. When they are issued, such changes as may be necessary to these regulations will be announced through standard FEDERAL REGISTER procedures. It was deemed advisable not to attempt to spell out in § 1386.24 all of the reports that the Department would or might require, but rather to leave such additional detail to subsequent instructions from the Department.

Sections 1386.28 through 1386.31 incorporate substantive aspects required in the statute for a State plan: Membership of the State planning council, identification of State council staff, review of all other State plans, and systematic review of the State plan. The purpose of these regulations is to emphasize that State planning councils, the core planning authority in the State essential to the maximum effective utilization of available existing and potential resources, can best function when adequately staffed and in an environment of coordination and mutual cooperation with all State agencies concerned with planning or implementation processes related to the program. The basis for these regulations is the Department's belief that the Act is designed so that the State planning council can have the capacity for getting cross-agency cooperation in carrying out its duties.

The Department further believes that this requires that the State planning council and State agency(ies) complement each other's functions through effective working relationships. These regulations restate the statutory requirements to make it clear that planning council members and staff are required to review their own and other State plans, and that such analysis, as a component of a systematic planning process, contributes information on needs, actual and potential resources, and to the development of short-term objectives to meet long-term goals. It also contributes to the development of council insight into the best methods to effect cross-agency coordination to develop a reliable system of services for the developmentally disabled persons in the State.

The next major area of concern relates to the provision of services and construction of facilities and consists of the proposed regulations found in §§ 1386.40 through 1386.49. The purpose of this subdivision of Subpart A is to insure that, through the description of clearly defined long-range goals and measurable short-term objectives, with primary consideration given to implementing the goals of the Act (deinstitutionalization of the developmentally disabled, early identification of those needing assistance, and provision of protective services, advocacy, and follow-along services) allocations of funds can be based on State priorities. At the heart of these provisions are the regulations at §§ 1386.42 through 1386.45.

The Department believes that detailed requirements are advisable in § 1386.46, dealing with the quality, extent, and scope of services, based upon the assumption that knowledge of such requirements will compel careful consideration of the types of services and assistance being provided to the developmentally disabled.

Similar reasoning relates to § 1386.47, dealing with habilitation plans which are required by the statute. In order to eliminate or reduce the possibility of confusion as to what is meant by a habilitation plan, it was deemed advisable to incorporate the statutory details in the regulations in order to give the greatest guidance with respect to this requirement.

Section 1386.48, dealing with the program for construction of facilities, is designed to set forth the purposes for which such construction programs are proper, and to require assessment of relative need and assignment of priority in order of relative need. It is the Department's belief that such a requirement will help to ensure planning for the best use of limited funds.

The last regulation in this group is § 1386.49 which, consistent with the statute, requires States to afford opportunities for appeal and hearing to applicants for construction projects who are dissatisfied with any action of the State with respect to an application for such a project.

The last subdivision of this subpart, § 1386.50, deals with the design for the implementation of the State plan. This provision is based on section 133(b)(25) of the Act. The purpose of the regulation is to set forth the Department's view as to what must be included in a design for implementation of the State plan in order for it to meet statutory requirements through the selection of the best methodology to achieve the goals and objectives developed by the State planning council. The Department believes that this regulation accomplishes the purpose of informing the States of the essential elements of a valid design, especially the review of alternative strategies, without denying them the flexibility to tailor such a design for implementing the State plan to their specific needs.

Subpart B relates to State planning councils. Proposed §§ 1386.60 through 1386.63 are designed to implement section 137 of the Act which sets forth the duties and responsibilities of State planning councils. These provisions, especially those found in §§ 1386.60 and 1386.63, are based on the Department's belief that the 1975 amendments (Pub. L. 94–103) broadened the responsibility of State planning councils in advocacy, planning, and evaluation. These regulatory provisions provide the statutory specificity regarding the role of the State planning councils, membership, and duties of those councils.

The basis for specifying in § 1386.61(b) the Federal/ State program membership on State planning councils is section 133(b)(A) of the Act which requires that a State plan describe the quality, extent, and scope of services provided, or to be provided, under other State plans, but in any case to include the nine programs listed. It is the Department's belief that this requirement in the statute necessitates State council representation of at least these nine programs. The purpose of this regulation is to enable States to meet the statutory requirement to develop an approvable State plan. The Department further believes that this provision, which supports Congressional intent, allows for maximum flexibility in council membership since in many States one member could represent more than one of these program areas and since there is no restriction on the number of council members that may be appointed.

One of the purposes of the Department in promulgating § 1386.63 is to ensure that State planning councils supervise the development of State plans through the provision of guidance, the establishment of goals and objectives, identification of gaps, and the setting of priorities for the allocation of funds. The day-to-day implementation of the State plan is the responsibility of the State agency(ies) designated to administer it. The activities of these designated agencies will be monitored and evaluated through the methods established by the State councils to ensure that goals and objectives established in the State plan are being achieved.

Subpart C concerns the protection and advocacy of individual rights and consists of a single proposed regulation, § 1386.70. The purpose of this regulation is to implement section 113 of the Act by incorporating into the regulatory structure the statutory requirements. The regulation includes provisions for assurances that the States will have a system in effect by October 1, 1977, to protect and advocate the rights of individuals with developmental disabilities as specified in the statute, and that such a system will be independent of any State agency which provides treatment, services, or habilitation to such persons.

The regulation does not attempt to establish a single method of implementing the statutory provisions. It is the Department's belief that different approaches may be utilized in order to achieve the substantive goal of establishing an independent agency to pursue the rights of the developmentally disabled. The Department believes it desirable to give States flexibility in the development of such a system. However, guidelines which will assist in the development of an advocacy plan will be issued by the Department to insure that the statutory provisions of section 113 are implemented. This regulation imposes no restrictions on the choice of the agency to plan the system. Rigid restrictions, however, are placed on the agency to be selected or established to implement the system by the Act.

The basis for this is to avoid all possibility of conflict of interest because this system has been established in section 113 of the Act for the purpose of addressing problems of individuals. It is the Department's belief that the State council's advocacy role is to be carried out on behalf of the developmentally disabled population as a whole within a State, and that the basic principle underlying the establishment of the protection and advocacy system in each State is that individuals who are developmentally disabled need to be able to reach outside the system of services in order to assure that their rights are not violated or diminished.

The Act makes these findings respecting the rights of developmentally disabled persons:

(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

(A) Does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

(B) Does not meet the following minimum standards:

(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

(ii) Provision to such persons of appropriate and sufficient medical and dental services.

(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) In the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 FR pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(B) In the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities are sanitary, and protect their rights; and

(C) In the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

Subpart D establishes the practice and procedure for hearings pertaining to State conformity with State plans for the developmentally disabled and with Federal requirements. These regulations are found in §§ 1386.80 through 1386.112. The purpose of these regulations is to create in advance of any hearing, regular procedures for the initiation of hearings, for the determination of the requisite notice and parties, and for the rules which will govern the conduct of the hearing itself and post-hearing actions of the parties and of the Presiding Officer and/or Director of the Developmental Disabilities Office.

The Department believes that these regulations, which are followed by other agencies within the Department, such as the Social and Rehabilitation Service and the Administration on Aging (the latter on an *ad hoc* basis), are fair to all the parties concerned and protect the interests of all potential parties with the least amount of delay and expense consistent with the protection of the rights of all concerned.

PART 1387—DISCRETIONARY GRANTS PROGRAM

Subpart A of proposed Part 1387 addresses university affiliated facilities and is divided into two subdivisions, "Demonstration and training grants" and "Construction programs." Sections 1387.1 through 1387.4 deal with demonstration and training grants. The essential purpose of these regulations is to incorporate the requirements of Part B, Subpart 1 of the Act, as amended. The Department believes that little material additional to that contained in the statute is required or desirable for the purpose of implementing this part of the Act. Section 1387.2 does detail what an application for a demonstration and a training grant must contain. The Department believes that this carries out the directive of section 122(a) of the Act which requires the Secretary to establish the form and manner of making an application and of the required contents of an application. Section 1387.4 is proposed for the purpose of implementing what the Department believes to be the Congressional purpose of section 122(b): Of giving priority to applications for programs which will provide services within a community rather than in an institutional setting. The Department believes that this Congressional purpose is best served by repetition of that priority in the regulations, even though the statutory provision just noted is clear.

Subpart 2 of Part B of the Act deals with construction programs and is implemented in §§ 1387.10 through 1387.14 of the proposed regulations. Section 1387.11 implements the statutory mandate found in section 126 of the Act, as amended, which directs the Secretary to establish the form and manner of submitting an application and the information which such an application must contain.

The purpose of the remaining regulations of this subdivision is to implement the statutory directives found in Subpart 2 of the Act. The Department bases these regulations on its belief that little change is necessary because the statute itself is clear with respect to assurances that are required and the purposes of the program. Section 1387.11, dealing with the form of the application, provides that it will be in such form and manner, and contain such information, as the Secretary may require. This is based upon the Department's belief that flexibility is required in the construction program. The applications will be expected to contain, as a minimum, however, the assurances regarding consistency with the State plan, State planning council review, construction standards, and other statutory requirements detailed in § 1387.12.

Subpart B of Part 1387 pertains to special project grants. The purpose of this Subpart, which consists of the regulations at §§ 1387.20 through 1387.23, is to incorporate into the regulations the statutory purposes for which such grants may be made as set forth in section 145(a) of the Act. These provisions are based upon the Departments' belief that the statute clearly sets forth what are acceptable purposes of special project grants.

Eligible applicants are described in § 1387.22 and are limited to public and other nonprofit agencies, organizations, and institutions. This definition is consistent with, and implements section 145(a) of the Act.

Section 1387.23 deals with the application content and the procedures for submitting applications. The purpose of this regulation is to make clear that the Secretary, through guidelines, has the authority to elaborate on the content and procedures. The reason for leaving this to guidelines is that, since this Subpart relates to specific applications for special projects, as opposed to Statewide

plans, greater diversity in permissible or required content is desirable; therefore criteria will be carefully developed. The Department believes that this can be accomplished more efficiently through guidelines than through the regulatory process, particularly since guidelines afford greater flexibility to both the Department and the applicant.

Paragraph (b), of § 1387.23 of this proposed regulation expressly requires a copy of any application for special project grant (other than projects of national significance) to be submitted to the State planning council for review and comment in order to ensure that the proposed project is consistent with the State plan goals and objectives and the comprehensive planning and monitoring responsibilities of the State planning council.

In summary, many of these proposed rulemaking provisions are restated from the Act. The Department has sought to provide States with maximum flexibility within the terms of the Act and to avoid imposing additional burdens beyond those required by the law. The detailed provisions concerning the content of State plans included in these proposed regulations are required by the statute itself.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Director, Developmental Disabilities Office, Department of Health, Education, and Welfare, 330 C Street, SW., Washington, D.C. 20201, on or before October 12, 1976. Comments received will be available for public inspection in Room 3070, Mary E. Switzer Building, of the Department's offices at 330 C Street, SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202/245-0335). 0335).

(Catalog of Federal Domestic Assistance Program, Nos. 13.630 Developmental Disabilities—Basic Support; 13.631 Developmental Disabilities—Special Projects; 13.632 Developmental Disabilities—Demonstration and Training (University Affiliated Facilities)

Dated: June 21, 1976.

STANLEY B. THOMAS, Jr.,
Assistant Secretary for Human Development.

Approved: August 20, 1976.

WILLIAM A. MORRILL,
Acting Secretary.

DEVELOPMENTAL DISABILITIES PROGRAM

PART 1385—GENERAL

Sec.

AUTHORITY: Pub. L. 91-517; Pub. L. 94-103.

§ 1385.1 Purpose of Act.

The purpose of the Act is to improve and coordinate the provision of services to persons with developmental disabilities and to establish a system for the protection and advocacy of rights for persons with developmental disabilities through:

(a) Grants to assist the States in developing and implementing a comprehensive and continuing plan for meeting the needs of the developmentally disabled;

(b) Support of activities which contribute to improving the condition of persons with developmental disabilities;

(c) Renovation and modernization of university affiliated facilities which demonstrate the provision of services for the developmentally disabled and support demonstration and training programs in institutions of higher education;

(d) Training specialized personnel needed for providing such services;

(e) Development of regional community programs for the developmentally disabled;

(f) Provision of technical assistance in the establishment of services and facilities for the developmentally disabled; and

(g) Development and demonstration of new and improved techniques for providing such services.

To these ends, Federal financial assistance is available through (1) basic support formula grants to States; (2) formula grants to States for effecting a system to protect and advocate the rights of developmentally disabled persons; (3) grants to university affiliated facilities and for satellite centers; and (4) grants to public and private nonprofit groups for demonstration projects and projects of national significance.

§ 1385.2 Terms.

(a) For purposes of Parts 1386 and 1387 of this chapter, the terms below are defined as follows:

(1) "Act" means the Developmental Disabilities Services and Facilities Construction Act, as amended by the Developmentally Disabled Assistance and Bill of Rights Act;

(2) "Construction" means (i) the construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, (ii) initial equipment for such buildings including medical and other transportation facilities, and (iii) architect's fees in connection with an approved project. Construction does not include the cost of offsite improvements or the cost of the acquisition of land;

(3) "Costs of administration and operation," for purposes of Part 1387 of this chapter, means those administrative and operating costs of university affiliated facilities which are necessary to support interdisciplinary training programs and demonstration facilities providing services to developmentally disabled persons. Eligible costs shall be specified in guidelines to be issued by the Secretary;

(4) "Cost of construction" means the amount found by the Secretary to be necessary for the construction of a project, approved under Parts 1386 and 1387 of this chapter;

(5) "Demonstration" means, for the purposes of Part 1387 of this chapter, (i) a pilot study or experimental attempt to provide more and better services than are available, for the purpose of testing or establishing standards or methods of service that are practicable and effective for general application in the developmental disabilities program; (ii) provision of a special type of service in order to test its value and to provide information on costs, methods of administration, methods of providing services, or techniques; or (iii) application in new settings of the results derived from previous research or practice for the purpose of determining the effectiveness of new procedures;

(6) "Developmental disability" means a disability of a person which (i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism; (ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or (iii) is attributable to dyslexia resulting from a disability described in paragraph (a) (i) or (ii); (iv) originates before such person attains age eighteen; (v) has continued or can be expected to continue indefinitely; and (vi) constitutes a substantial handicap to such person's ability to function normally in society;

(7) "Director" means the Director of the Developmental Disabilities Office, Office of Human Development.

(8) "Equipment," for the purposes of construction under Parts 1386 and 1387 of this Chapter, means those items which are necessary for the initial operation of the facility, but does not include supplies such as food, fuel, drugs, and paper;

(9) "Exemplary services" means those specialized services, including adaptation of generic services, for the diagnosis, treatment, education, training, habilitation, and care of persons with developmental disabilities, conducted in or in conjunction with a university affiliated facility (or satellite) for purposes of demonstration or training, which are of replicable high quality;

(10) "Facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities;

(11) "Interdisciplinary training" means an integrated educational pro-

gram utilized reciprocally by two or more disciplines each of which is knowledgeable about or possesses, in relationship to common fields of endeavor, a basic language, a core body of knowledge, certain relevant skills, and an understanding of the attitudes, values, and methods of partcipating disciplnes. Interdsciplinary training includes training with practicums which enhance the skills of the trainee in collaboration with or complementing the services rendered by members of other disciplines;

(12) "National Advisory Council" means the National Advisory Council on Services and Facilities for the Developmentally Disabled;

(13) "Nonprofit facility for persons with developmental disabilities" and "nonprofit private institution of higher learning" mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations;

(14) "Population" as applied to any State means the population of that State as determined by the most recent official estimates by the U.S. Department of Commerce made available to the Secretary;

(15) "Project period" means the period of time, not exceeding three years, for which a project is approved for grant support with Federal funds. Such period may be extended by the Secretary beyond three years for a period not to exceed twelve months, and with or without additional funding, in order to permit continuation or completion of the same approved project. The approval and support of a project for the maximum project period shall not preclude additional support of that project beyond such period if such support of the continued project is requested, evaluated, and approved on the same basis as a new or initial application in acordance with § 1387.22 of this chapter;

(16) "Projects of national significance" means projects (i) designed to have a direct impact on developmental disabilities programs throughout the country; or (ii) having an objective or objectives which if achieved could be replicated or result in an improved delivery system for developmental disabilities services or affect national policies or standards; or (iii) involving activities to be conducted in a number of sites in various parts of the country as part of a unified program;

(17) "Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing, including State institutions of higher education and hospitals, or any Indian tribal government;

(18) "Satellite center" means an entity which is associated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facilities in the delivery of training, services, and programs to the developmentally disabled and their families, to personnel of State agencies concerned with developmental disabilities, and to others responsible for the care of persons with developmental disabilities;

(19) "Secretary" means the Secretary of Health, Education, and Welfare, or a designee;

(20) "Services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability. Such services include: Diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with a developmental disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons of all ages with developmental disabilities;

(21) "State" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(22) "State agency(ies)" means the State agency or agencies designated in the State plan to administer or supervise the administration of all or designated portions of the State plan;

(23) "State agency for construction" means the sole State agency designated to administer or supervise the administration of grants for construction of facilities for the developmentally disabled under the State plan;

(24) "State plan" means the document or documents submitted by the State to comply with the requirements for participation under Parts 1386 and 1387 of this chapter;

(25) "State planning council" (referred to alternately as "State council" or "council") means that body, the members of which are appointed by the Governor, which is responsible for supervising the development of comprehensive planning for persons with developmental disabilities, monitoring of the plan, and evaluating its results, and which serves as an advocate for persons with developmental disabilities;

(26) "Substantial handicap" means a physical and mental disability of such severity that, alone or in connection with social, legal, or economic constraints, it requires the provision of specialized services over an extended period of time directed toward the individual's social, personal, physical, or economic habilitation or rehabilitation;

(27) "Technical assistance" means the furnishing of consultative, technical, and informational services to States, local or other public or private agencies, organizations, or individuals in matters pertaining to planning, provision of services, construction of facilities, and the organization and management of facilities and programs for developmentally disabled persons;

(28) "Title" (except when it refers to the Code of Federal Regulations) means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project;

(29) "University affiliated facility" means a public or other non-profit facility which is associated with, or is an integral of, a college or university, which aids in demonstrating the provision of specialized services for the diagnosis and treatment of persons with developmental disabilities, and which provides education and training (including interdisciplinary training) of personnel needed to render servces to persons with developmental disabilities;

(30) "Urban or rural poverty area" means a geographic area in which a percentage of the residents of the area have incomes below the poverty level as defined by the Secretary of Commerce;

(31) "Volunteer" means a person who provides a service on a non-paid basis, except for reimbursement of actual expenses, and who works in concert with other services toward shared objectives on an individual or group assignment.

§ 1385.3 Grants administrative requirements.

(a) The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles for grants to State and local governments, shall apply to all grants funded under Parts 1386 and 1387 of this chapter.

(b) Attention is called to the applicability, as cited therein, of the provisions of the following parts of Title 45 CFR to grants funded under Parts 1386 and 1387 of this chapter:

45 CFR Part 16—Department Grant Appeals Process
45 CFR Part 46—Protection of Human Subjects
45 CFR Part 75—Informal Grant Appeals Procedures, Subpart A—Indirect Cost Appeals
45 CFR Part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health, Education, and Welfare—Effectuation of Title VI of Civil Rights Act of 1964
45 CFR Part 81—Practice and Procedure for Hearings under Part 80 of this Title.

(c) Each recipient of assistance under these Parts shall keep records (1) which fully disclose (i) the amount and disposition by such recipient of the proceeds of such assistance, (ii) the total cost of the project or undertaking in connection

with which such assistance is given or used, and (iii) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

§ 1385.4 Judicial review.

If any State is dissatisfied with the Secretary's action under § 1386.2 or § 1386.15 such State may appeal to the United States Court of Appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action, in accordance with 42 U.S.C. 2694.

§ 1385.5 State control of operations.

Except as otherwise specifically provided, nothing in Parts 1386 and 1387 of this chapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under these parts.

§ 1385.6 Employment of handicapped individuals.

As a condition for the receipt of financial assistance under Parts 1386 and 1387 of this chapter each recipient of such assistance shall take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (a) by State rehabilitation agencies and rehabilitation facilities, and (b) under Federal contracts and subcontracts.

§ 1385.7 Recovery.

The State council shall promptly notify the Secretary in writing if, any time within 20 years after the completion of construction, any facility which received funds under Part 1386, Subpart A and Part 1387, Subpart A of this chapter is sold or transferred to any person, agency, or organization not qualified to file an application under the Act or not approved as a transferee by the State agency; or (b) ceases to be a public or other nonprofit facility for persons with developmental disabilities. Unless there is good cause, in conformance with § 1385.8, for releasing the applicant or other owner from obligation to continue such facility as a facility for developmentally disabled persons, the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabliities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

§ 1385.8 Good cause for other use of facility.

If, within 20 years after completion of any construction for which a construction grant under the Act has been made, the facility shall cease to be a public or nonprofit facility for persons with developmental disabilities, the Secretary in determining whether there is good cause for releasing the applicant or other owner of the facility from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities, shall take into consideration the extent to which:

(a) The facility will be devoted by the applicant or other owner to use for another public purpose which will promote the purposes of the Act; or

(b) There are reasonable assurances that for the remainder of the 20 year period other facilities not previously utilized for the care of persons with developmental disabilities will be so utilized and are substantially equivalent in nature and extent for such purposes.

§ 1385.9 Cooperative or joint effort between States and agencies.

An application providing for participating in a joint effort between States or among public or private agencies, or by any combination of such entities, shall be in accordance with the agreements in writing between the entities involved.

§ 1385.10 Awards.

All awards under Parts 1386 and 1387 of this chapter shall be in writing and shall set forth the amount awarded. Awards under Part 1387 of this chapter shall also specify the project period for which support is contemplated.

(a) Federal financial participation shall be available under Parts 1386 and 1387 of this chapter only for those activities approved in the grant award and only in the total amount approved in the award.

(b) Under Part 1386, Subpart A of this chapter, Federal financial participation may be available in expenditures made under the State plan including expenditures for the State council and the administration of the State plan, in accordance with applicable State laws, rules, regulations, and standards governing expenditures by State and local agencies. As a condition for Federal financial participation, the annual revision of the State plan and other required reports must be submitted by the State planning council and approved by the Secretary.

§ 1385.11 Assurances regarding evaluation system.

(a) Within six months after the development by the Secretary of an evaluation system in accordance with the Act, as a condition to the receipt of Federal financial assistance under Parts 1386 and 1387 of this chapter, each State shall submit to the Secretary a proposal for a time-phased method of implementing the system. Proposals shall be submitted in the form and at the time set forth in guidelines which will be issued by the Secretary.

(b) Within two years after the date of the development of such a system, each State shall provide assurances satisfactory to the Secretary that the State is using such a system.

PART 1386—FORMULA GRANT PROGRAMS

Subpart A—The State Plan

GENERAL

ALLOTMENTS, FEDERAL SHARE, AND PAYMENTS

STATE PLAN REQUIREMENTS—METHODS OF ADMINISTRATION

PROVISION OF SERVICES AND CONSTRUCTION OF FACILITIES

DESIGN FOR IMPLEMENTATION

Subpart B—State Planning Council

AUTHORITY: Pub. L. 91–517; Pub. L. 94–103.

Subpart A—The State Plan

GENERAL

§ 1386.1 Purpose and assurances.

(a) *General.* Any State wishing to take advantage of Federal financial assistance under this Subpart must have a State plan approved annually by the Secretary.

(b) *Form and content.* The State plan shall contain, in the form prescribed by the Secretary, a specific description of the State's program, the plans and policies to the followed in carrying out the program, a description of the planning process as developed by the State council and utilized in developing the program, and such other information as prescribed by the Secretary. Basic principles for the planning processes and suggested alternative models will be described in guidelines issued by the Secretary. The State plan shall consist of the following parts which shall be amended, reaffirmed, or updated annually as applicable:

(1) A part setting forth data necessary to comply with assurances required in the Act, and all regulations, policies, and procedures which shall be established by the Secretary;

(2) A part which describes the State goals, annual objectives to achieve the goals, priorities, evaluation methods, and the rationale for annual changes;

(3) A part containing measurable objectives and strategies (i) to reduce and eventually eliminate inappropriate institutional placement of people with developmental disabilities; and (ii) to improve the quality of care and state of surroundings of persons for whom institutional care is appropriate;

(4) A part containing a design for implementation of the plan as set forth in § 1386.50; and

(5) A part containing the following assurances: (i) Authority of the State agency(ies): The State plan shall certify that the State agency(ies) has authority to administer or supervise the administration of all or portions of the State plan, and that nothing in the State plan is inconsistent with State law;

(ii) Funds made available to other agencies: (A) Part of the funds paid to the State will be made available to other public agencies or other nonprofit private agencies, institutions, and organizations for the purposes of carrying out the Act; (B) Such funds shall be expended in accordance with State procedures and standards and in accordane with the requirements obtained in these regulations and policies established by the Secretary;

(iii) State participation in carrying out the State plan: That there will be reasonable State financial participation in the cost of carrying out the State plan. Reasonable State participation shall include evidence of the following: (A) That there is an organizational unit responsible for program administration; (B) That adequate staff is available for administration of the plan; and (C) That State appropriated funds will be used in part to support the activities included under the State plan;

(iv) Anticipated contribution toward strengthening services: That the funds paid to the State will be used to make significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State, in order to improve the quality, extent, and scope of services.

(v) Maintenance of effort: That funds paid the State under the State plan will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided, and not to supplant such non-Federal funds. Compliance with such assurance will be deemed to have been met if the aggregate level of State, local, and private non-profit funds available in the State for activities supported under the approved State plan is at least no lower for any fiscal year than it was for the immediately preceding fiscal year as reported in required financial reports, provided that the Secretary may also take into consideration the extent to which the level of such funds for any fiscal year may have included emergency or other funds for an activity of a non-recurring nature;

(vi) Human rights and welfare of individuals receiving services: That the human rights of all persons (especially those without familiar protection) receiving services under Parts 1386 and 1387 of this chapter will be protected;

(vii) Services for persons unable to pay: That a reasonable volume of services will be furnished to persons unable to pay therefor. As used in this section, "persons unable to pay therefor" includes persons who are otherwise self-supporting but are unable to pay the full cost of needed services. Such services may be paid for wholly or partly out of public funds or contributions of individuals and private and charitable organizations, or may be contributed at the expense of the provider of services itself. In determining what constitutes a reasonable volume of services to persons unable to pay therefor, there shall be considered the amount of services that may be available through generic agencies. The requirements may be waived if it is demonstrated to the satisfaction of the State agency, subject to subsequent approval by the Secretary, that to furnish such services is not feasible financially;

(viii) Financial support for facilities: That adequate financial support will be available to complete the construction of, and to maintain and operate the facility when such construction is completed. Compliance with this assurance may be made by a showing from the grantee that adequate funds are or will be on deposit in a bank, or that program income from services provided is or will be adequate, or that State and local funds will be made available for maintenance and operation upon completion of construction; (ix) Payment of construction workers: That all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project assisted with funds under this subpart and Subpart A, Part 1387 of this Chapter will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

(x) Compliance with assurance for habilitation plans for developmentally disabled persons: Each State receiving an allotment under this Subpart after September 30, 1976, shall satisfactorily assure the Secretary that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under this Subpart has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan and that such plans are reviewed annually.

(6) A part containing those requirements in §§ 1386.20 through 1386.49.

§ 1386.2 Plan submission and approval.

(a) The State plan (and its annual revisions) shall be submitted by the chairperson of the State council to the Secretary 60 days prior to the fiscal year for which the plan is applicable.

(b) Failure to submit an approvable plan or annual revision prior to the fiscal year for which the plan is applicable shall result in the loss of Federal financial participation in the cost of expenditures during the period of the fiscal year for which an approvable plan or annual or other revision has not been submitted.

(c) Any State plan, amendment, or revision meeting the requirements of the Act, this Subpart, and performance standards to be issued by the Secretary shall be approved.

(d) Final disapproval of any State plan or annual or other revision shall be determined by the Secretary; except that no State plan or any revision thereof shall be finally disapproved until after the State has been given reasonable notice and opportunity for a hearing in accordance with Subpart D of this part.

§ 1386.3 Designation of State agency(cies) for administration.

(a) The State plan shall name the designated State agency(ies) which shall administer all or designated portions of the State plan: provided, that a sole State agency is to be designated for administering or supervising the administration of grants for construction.

(b) If the State plan designates more than one State agency to administer the State plan, it shall set forth the portion of the program for which each State agency is responsible.

(c) The State may apportion its allotment among such agencies in proportion to the responsibilities assigned to such agencies for carrying out activities approved under the State plan. Funds so apportioned may be combined with other State or Federal funds authorized to be spent for other purposes of this part for which the funds are combined.

§ 1386.4 Identification of administrative program unit.

The State plan shall provide for and identify a program unit within the designated State administering agency, which has primary responsibility for proper and efficient administration of the State plan.

ALLOTMENTS, FEDERAL SHARE, AND PAYMENTS

§ 1386.10 Allotments to States.

The allotment to the several States shall be computed by the following formula:

(a) Two-thirds on the basis of total population weighted by financial need determined by the relative per capita income as shown by data supplied by the U.S. Department of Commerce for the three most recent consecutive years for which satisfactory data are available.

(b) One-third on the basis of a need factor based on the ratio of beneficiaries in the State receiving benefits under the Adult Disabled Child Program (section 202(d)(1)(B)(ii) of the Social Security Act) related to population of the State age 18–65 as bearing on the national total of such population weighted by the total population of the State.

(c) For the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, the allotment in any fiscal year beginning July 1, 1975, shall not be less than $50,000. The allotment of each other State in any fiscal year shall not be less than the greater of $150,000, or the amount of the allotment received by the State for the fiscal year ending June 30, 1974.

(d) If the amount appropriated for State allotments for any fiscal year exceeds $50,000,000, the minimum allotment of a State for such fiscal year shall be increased by an amount which bears the same ratio to the amount determined for such State as the difference between the amount so appropriated and the amount authorized to be appropriated for such fiscal year bears to $50,000,000.

§ 1386.11 Reallotment of funds.

The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as may be fixed (but not earlier than thirty days after notice has been published of the Secretary's intention to make such reallotment in the FEDERAL REGISTER), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

§ 1386.12 Conditions on uses of allotments.

(a) For the fiscal year ending June 30, 1976, not less than 10 per centum of each State's allotment shall be expended for the purpose of assisting in developing and implementing plans designed to eliminate inappropriate placement in institutions of persons with developmental disabilities. For each succeeding fiscal year, 30 per centum of the State's allotment shall be used for these purposes.

(b) Designation of allotment for construction. The State plan shall specify the per centum of the State's allotment in any fiscal year which is to be devoted to construction of facilities. Such per centum shall be not more than 10 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe.

(c) Sums allotted to a State in a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted to such State in such next fiscal year; except that if the maximum amount which may be specified for construction for a year plus any part of the amount so specified pursuant to such section for the preceding fiscal year and remaining unobligated at the end of such fiscal year is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State, the amount specified for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

(d) Expenditures for proper and efficient administration of the State plan. (1) At the request of the designated State agency, a portion of the State's allotment shall be made available by the Secretary to pay not more than one-half of the expenditures described in this paragraph for proper and efficient administration of the approved State plan: *Provided*, That not more than 5 per centum or $50,000, whichever is less, shall be available for this purpose. (2) Payments under this section shall be made only on the condition that expenditures from State appropriations for administration of the State plan shall not be less than State expenditures for the fiscal year ending June 30, 1975. (3) Costs identified in the approved State plan as necessary for the administration of the program shall not include costs applicable to provision of services, planning or construction.

§ 1386.13 Federal share.

(a) Except as provided for in paragraph (b) of this section, the Federal share for a State may not exceed 75 per centum of the expenditures incurred by the State under the State plan.

(b) In the case of any project, program, or activity located in an area within a State determined by the Secretary to be an urban or rural poverty area, the Federal share may not exceed 90 per centum of the expenditures incurred by the State under the State plan.

(c) The non-Federal share of any project, program, or activity assisted by a grant under this Subpart may be provided in kind.

(d) For the purpose of determining the Federal share with respect to any activity, program, or project described in the State plan, expenditures on that activity, program, or project by a political subdivision of a State or by a nonprofit private entity shall be deemed to be expenditures by such State, subject to the condition that such expenditures may be included only when made by a political subdivision or nonprofit private agency, organization, or group to which the State agency has made available funds from Federal or State sources for carrying out

the approved State plan for the fiscal year.

§ 1386.14 Nonduplication.

In determining the amount of any State's Federal share of the expenditures incurred by it under its approved State plan, there shall be disregarded (a) any portion of such expenditures which are financed by Federal funds provided under any provision of the law other than this subpart, and (b) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds, except as otherwise provided by statute enacted subsequent to the effective date of Pub. L. 94–103, December 18, 1975.

§ 1386.15 Payments for planning, administration, services, and construction.

(a) From each State's allotment for a fiscal year under this subpart, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(b)(1) Payments for construction projects shall be made upon certification by the designated State agency for construction that, based upon its inspection, work has been performed upon a project, or purchases have been made in accordance with plans and specifications approved by the State agency and payment of an installment is due. If the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant. Certification shall be submitted to the Secretary in such form and at such times as required. Final payment for a project shall be made only upon certification by the State agency authorized by State law and designated by the Governor to administer construction grants that appropriate, periodic, and final inspections have been made by appropriate authorities in the State and that all applicable construction standards and other applicable standards and codes have been met. (2) If the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring withholding of payments (§ 1386.16) payment may be withheld in whole or in part, pending corrective action or action based on such hearing, after notice has been given to the designated State agency of opportunity for a hearing.

§ 1386.16 Withholding of payments.

(a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State council and the appropriate State agency(ies), finds that (1) there is a failure to comply substantially with any of the provisions required to be included in the State plan; (2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this Part, the Secretary shall notify such State council and agency(ies) that further payments will not be made to the State under this Subpart (or, in his discretion, that further payments will not be made to the State for activities in which there is such failure) until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment under this Subpart to the State or shall limit further payment under this subpart to such State to activities in which there is no such failure.

(b) The State council shall review the actions of the State for the purpose of determining if the State is complying with the requirements of the State plan and its design for implementation. For the purpose of assisting the Secretary in the implementation of this section, the State council shall notify the Secretary of the results of its review.

§ 1386.17 Standards for services and construction of facilities.

(a) Standards for services for persons with developmental disabilities. [Reserved].

(b) Standards for construction and equipment of facilities.

(1) *General.* (i) The standards set forth in this section shall apply to all projects receiving Federal assistance under Subpart A, Part 1386 and Subpart A, Part 1387 of this chapter for construction of new buildings, acquisition, modernization, expansion, remodeling, and alteration of existing buildings and initial equipment for such buildings.

(ii) The designated State agency for construction shall determine in writing the occupancy classification of the building under the Life Safety Code (National Fire Protection Association (NFPA) Bulletin No. 101) 1973 edition or such future revisions as may be approved by the Secretary, to ensure the capability of building occupants to respond in emergencies and for self-preservation.

(iii) The site location of any facility shall be community-based and comply with the National Environmental Policy Act, Pub. L. 91–190.

(2) *Design and construction of facilities.* (i) Project design and construction of facilities shall be done in accordance with one of the following model codes:

The Building Officials Conference of America—(BOCA).
The Uniform Building Code—(UBC).
The Southern Standard Building Code—(SSB).
The National Building Code—(NBC).

(ii) The codes listed below shall be used with respect to the following specific details:

Life safety: The National Fire Protection Association (NFPA), The Life Safety Code, Bulletin No. 101;
Air conditioning and ventilation systems: NFPA Standards, Nos. 90A or 90B;
Plumbing—National Standard Plumbing Code, (NAPHCC);
Electrical systems—National Electrical Code, NFPA Standard No. 70;
Elevators—American Standard Safety Code for Elevators, Dumbwaiters, and Escalators, ASA–A17 1960.

(3) *Special details.* (i) All doors to toilet rooms and bathrooms shall be equipped with hardware that will permit access in an emergency.

(ii) Hot water at the discharge spigot, faucet, or shower head where there is likelihood of direct skin contact (personal hygiene) shall not exceed 110 degrees Fahrenheit.

(iii) All paint and applied finishes used in furniture and furnishing shall be free of lead or other materials which may be harmful if ingested by humans, in accordance with Pub. L. 91–695, the Lead-Based Paint Poisoning Prevention Act;

(4) *Equipment.* Initial equipment of the kind and in the quantity necessary shall be provided for the complete functioning of the facility.

(5) *Architectural Barriers.* The building to be constructed, renovated, or modernized will comply with revised standards of the American National Standards Institute, Inc., adopted pursuant to the Architectural Barriers Act of 1968, 42 U.S.C. 4151–4156.

(6) *Hazards—Relocation.* The application, facility, and the operation thereof shall comply, as appropriate, with the following:

(i) Uniform Relocation Assistance Act— Pub. L. 91–646.
(ii) Historic Sites—Pub. L. 89–665.
(iii) Flood Insurance—Pub. L. 93–234.
(iv) Flood Hazards—Executive Order 11296.

STATE PLAN REQUIREMENTS—METHODS OF ADMINISTRATION

§ 1386.20 Methods of administration.

The State plan shall provide for such strategies, policies, and procedures as are necessary for the proper and efficient administration of the State plan. It shall include methods of informing the general public in the State of the kinds and locations of services and facilities which are available under the State plan, and that the State plan is available to interested parties in the State for their information.

§ 1386.21 Personnel administration.

(a) The State plan shall provide that methods of personnel administration will be established and maintained (in the State agencies administering or supervising the administration of the program and in local agencies administering the program) in conformity with the standards for a Merit System of Personnel Administration, 45 CFR Part 70, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards.

(b) The State plan shall provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects

of personnel administration as specified in 45 CFR 70.4, Equal employment opportunity. The affirmative action plan will provide for specific action steps and timetables to assure equal employment opportunity. This plan shall be made available for review upon request.

§ 1386.22 Fiscal administration.

The State plan shall provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this Subpart.

§ 1386.23 Special financial and technical assistance to poverty areas.

The State plan shall provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas.

§ 1386.24 Reports.

The State plan shall provide that the State agency will make such reports in such form and containing such information, and at such time, as the Secretary may require, and will comply with such provisions as he may find necessary to assure the correctness and verification of such reports. These reports include, but are not limited to, (a) the Developmental Disabilities Office's program performance report and (b) financial reports.

§ 1386.25 Methods of evaluation.

(a) The State plan shall describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with developmental disabilities in the State.

(b) The State plan shall provide for the implementation of an evaluation system in accordance with § 1385.11 of this chapter.

§ 1386.26 Use of volunteers.

The State plan shall provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Services Act of 1973 (87 Stat. 394), and other appropriate voluntary organizations. The use of such services shall supplement, but shall not be in lieu of, paid employees.

§ 1386.27 Protection of employees' interests.

The State plan shall provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions to carry out the plan described in § 1386.42 including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

§ 1386.28 Membership of State planning council.

The State plan shall contain a current listing of the members of the State council, their names, and the constituency, agency, or organization each represents.

§ 1386.29 Identification of State planning council staff.

The State plan shall provide that the State council will be adequately staffed consistent with its duties and responsibilities and shall identify the staff assigned to the council.

§ 1386.30 Review of all other State plans.

The State plan shall provide, to the maximum extent feasible, for an opportunity for prior review and comment by the State council of all State plans of the State which relate to programs affecting persons with developmental disabilities. The State council's responsibilities in obtaining timely access to these other State plans, and the council's recourse if the plans are not made available will be detailed in guidelines to be issued by the Secretary.

§ 1386.31 Review of State plan.

The State plan shall provide that the State council will from time to time, but not less often than annually, review and evaluate its State plan approved under this subpart and submit appropriate revisions to the Secretary.

PROVISION OF SERVICES AND CONSTRUCTION OF FACILITIES

§ 1386.40 Goals and objectives.

The State plan shall describe clearly defined long-range goals and measurable short-term objectives, with primary consideration given to §§ 1386.42 through 1386.45 and to goals which may be established by the Secretary.

§ 1386.41 Allocation of grant funds based on State priorities.

(a) The State plan shall set forth priorities, policies, and procedures for the allocation and expenditure of funds under the plan, based on the established goals and objectives.

(b) Special consideration shall be given to those activities (1) which are located in areas of urban or rural poverty, or (2) which provide services to the more severly handicapped persons.

(c) The State plan shall provide that high priority for approval shall be given to those activities that hold significant promise toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of individuals with such a disability.

§ 1386.42 Deinstitutionalization.

The State plan goals, objectives, and strategies shall address: (a) The elimination of inappropriate placement in institutions of persons with developmental disabilities, and (b) the improvement of the quality of care and the state of surroundings of persons who are appropriately placed in institutions.

§ 1386.43 Establishment of community program alternatives to institutionalization.

The State plan shall support the establishment of community programs as alternatives to institutionalization and support such programs designed to provide services for the care and habilitation of persons with developmental disabilities, and which utilize, to the maximum extent feasible, the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational, or social services for persons with developmental disabilities.

§ 1386.44 Early screening, diagnosis, and evaluation.

The State plan shall provide for early screening, diagnosis, and evaluation (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training) of developmentally disabled infants and preschool children, particularly those with multiple handicaps.

§ 1386.45 Counseling, program coordination, advocacy, follow-along, and protective services.

The State plan shall provide for counseling, program coordination, follow-along services, protective services, and personal advocacy on behalf of developmentally disabled adults.

§ 1386.46 Quality, extent, and scope of services being provided or to be provided.

(a) The State plan shall describe the quality, extent, and scope of services being provided, or to be provided, in implementing the State plan, under such other State plans for Federally assisted State programs as may be specified by the Secretary, but in any case including the following Federally assisted programs: Education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans.

(b) The State plan shall describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to person with developmental disabilities from funds under this part.

(1) *Quality.* The State plan shall provide that services and facilities furnished under the State plan for persons with developmental disabilities will be in accordance with the standards set forth in § 1386.17.

(2) *Extent.* The State plan shall describe the extent of services to be provided under the plan including: (i) The kinds of needs to be met, and individuals to be served (such as type and severity of disabilities, age groups, economic status), (ii) the geographic location, distribution, and accessibility of services, and (iii) other relevant factors.

(3) *Scope.* The State plan shall describe the scope of the services to be provided, taking into account Federally-aided State and local programs involved, manpower, and financial resources, and other factors, directed toward the alleviation of developmental disabilities, or toward the social, personal, physical or economic habilitation, or rehabilitation of individuals with such disabilities.

(c) The State plan shall describe how Federal funds allotted to the State will be used to complement and augment rather than duplicate or replace services and facilities which are eligible for Federal assistance under other State programs.

§ 1386.47 Habilitation plans.

For the purpose of complying with the assurance regarding individual habilitation plans (§ 1386.1(b)(5)(x)), the State plan shall describe the methods to be used to facilitate an annual review of the individual plans. The State plan shall also describe the requirements of the habilitation plan which shall include at least the following: (a) The plan shall be in writing.

(b) The plan shall be developed jointly by (1) a representative(s) of the program primarily repsonsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (2) such person, and (3) where appropriate, such person's parents or guardian or other representative.

(c) Such plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainment of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavorial or other terms that provide measurable indices of progress. The plan shall (1) describe how the objectives will be achieved and the barriers that might intrefere with the achievement of them, (2) state objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved, and (3) provide for a program coordinator who will be responsible for the implementation of the plan.

(d) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

(e) The plan shall specify the role and objectives of all parties to the implementation of the plan.

(f) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.

§ 1386.48 Program for construction of facilities.

When a specific portion of the State's allotment is set aside for construction, the State plan shall provide for the development of a program of construction, renovation, or modernization of facilities for the provision of services for persons with developmental disabilities. Such a program shall (a) be based on a statewide inventory of existing facilities and a survey of need; (b) set forth the relative need in accordance with § 1386.41; (c) assign priority to the construction of projects in order of relative need insofar as funds are available for costs of construction and costs of maintenance and operation of such projects.

§ 1386.49 Opportunity for appeal and hearing.

The State plan shall provide for an opportunity for appeal to and hearing before the State agency for construction to every applicant for a construction project who is dissatisfied with any action of the State agency for construction regarding its application.

DESIGN FOR IMPLEMENTATION

§ 1386.50 Design for implementation of State plan.

(a) The State plan shall contain a design for implementation which shall include (1) details of the methods to be used to implement the State plan, (2) specific objectives to achieve the goals set forth in the State plan, (3) a listing of the programs and resources to be used to meet such objectives, (4) priorities for spending of funds provided under this Subpart, (5) a detailed plan for the use of such funds, and (6) a method for periodic evaluation of the design's effectiveness in meeting such objectives.

(b) The designated State agency is responsible for selecting from alternative strategies those best methods which will achieve the goals and annual objectives as developed by the State council. The design for implementation shall identify the programs and activities related to each of the objectives set forth in accordance with §§ 1386.40 through 1386.45 and the amount of funds allocated to each objective. The expenses of the State council are to be included in the design for implementation.

(c) The design for implementation is to be submitted annually as part of the annual State plan revision. Revisions to the design for implementation may be made as necessary by the designated State administering agency and shall be approved by the State council prior to submission to the Secretary.

Subpart B—State Planning Council

§ 1386.60 Role of State planning council.

The role of the State council is to supervise the development of the State plan by the designated State agency(ies) by providing guidance through the establishment of goals and objectives, identification of gaps, and the setting of priorities for the allocation of funds. In order to establish credible goals, the State council shall be responsible for needs assessment, analysis of programs currently and potentially capable of providing services to the developmentally disabled, and establishment of priorities to deal with identified gaps. The State council shall establish methods for monitoring and evaluating the implementation of the State plan to ensure that established goals and objectives are being achieved.

§ 1386.61 Establishment of State planning council.

(a) Each State which receives assistance under this part shall establish a State council which will serve as an advocate for persons with developmental disabilities. The members shall be appointed by the Governor of the State.

(b) Membership. Each State planning council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to persons with developmental disabilities. As a minimum, the following Federal/State programs must be represented by the State agency membership on the council: Education of the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, comprehensive health planning, and mental health. At least one-third of the membership of such a council shall consist of persons with developmental disabilities, or their parents or guardians, who are not officers or directors of an entity, or employees of any State agency or of any other entity, which receives funds or provides services under this part.

§ 1386.62 Adequate staff.

Each State receiving assistance under this Part shall engage for its State council personnel adequate to insure that the council has the capacity to fulfill its responsibilities.

§ 1386.63 Duties of the State planning council.

The State council shall—

(a) Supervise the development of and approve the State plan required by this part;

(b) Monitor and evaluate the implementation of such State plan;

(c) To the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities;

(d) Submit to the Secretary, through the Governor, such periodic reports as the Secretary may reasonably request; and

(e) Submit revisions of the State plan to the Secretary.

Subpart C—Protection and Advocacy of Individual Rights

§ 1386.70 State system for protection and advocacy of individual rights.

(a) As a condition to a State's receiving an allotment under Subpart A of this part, the State shall provide assurances satisfactory to the Secretary that not later than October 1, 1977, (1) the State will have in effect a system to protect and advocate the rights of persons with developmental disabilities, (2) such system will have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (3) such system will be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary shall not make an allotment under Subpart A of this part to a State for any fiscal year beginning after September 30, 1977, unless the State has in effect such a system.

(b) The Governor shall designate the agency responsible for administering the protection and advocacy system and shall approve the advocacy plan prior to the approval of the Secretary. Such plan is to be submitted in accordance with this section and guidelines established by the Secretary.

(c) The allotment to the State shall be computed in accordance with § 1386.10 (a), (b) except that the allotment to a State in any fiscal year shall not be less than $20,000.

Subpart D—Practice and Procedure for Hearings to States on Conformity of Developmental Disabilities Plans to Federal Requirements

General

§ 1386.80 Definitions.

For purposes of this Subpart only:

(a) The term "DDO" means Developmental Disabiilties Office.

(b) The term "designee" means any other individual so designated by the Secretary's delegate.

(c) The term "Secretary" means the Secretary of the Department of Health, Education, and Welfare.

(d) The term "Secretary's delegate" means the Assistant Secretary for Human Development, or the Director, Developmental Disabilities Office.

§ 1386.81 Scope of rules.

(a) The rules of procedure in this Subpart govern the practice for hearings afforded by the Department to States pursuant to § 1386.2 or § 1386.15, and the practice relating to decisions upon such hearings.

(b) Nothing in this part is intended to preclude or limit negotiations between the Department and the State, whether before, during, or after the hearing to resolve the issues which are, or otherwise would be, considered at the hearing. Such negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this subpart, except as expressly provided herein.

§ 1386.82 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the DDO Hearing Clerk. Inquiries may be made at the Central Information Center, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Washington, D.C. 20201.

§ 1386.83 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 1386.84 Suspension of rules.

Upon notice to all parties, the Secretary's delegate or the presiding officer, with respect to matters pending before him and within his jurisdiction, may modify or waive any rule in this part, unless otherwise expressly provided, upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

§ 1386.85 Filing and service of papers.

(a) All papers in the proceedings shall be filed with the DDO Hearing Clerk in an original and two copies. Originals only of exhibits and transcripts of testimony need be filed.

(b) All papers in the proceedings shall be served on all parties by personal delivery or by mail. Service on the party's designated representative will be deemed service upon the party.

Preliminary Matters—Notice and Parties

§ 1386.90 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing from the Secretary's delegate to the State. The notice shall state the time and place for the hearing, and the issues which will be considered, and shall be published in the Federal Register.

§ 1386.91 Time of hearing.

The hearing shall be scheduled not less than 30 days nor more than 60 days after the date notice of the hearing is furnished to the State.

§ 1386.92 Place.

The hearing shall be held in the city in which the regional office of the Department is located or in such other place as is fixed by the Secretary's delegate in light of the circumstances of the case, with due regard for the convenience and necessity of the parties or their representatives.

§ 1386.93 Issues at hearing.

(a) The Secretary's delegate may, prior to a hearing under § 1386.2 or § 1386.15, notify the State in writing of additional issues which will be considered at the hearing, and such notice shall be published in the Federal Register. If such notice is furnished to the State less than 20 days before the date of the hearing, the State or any other party, at its request, shall be granted a postponement of the hearing to a date 20 days after such notice was furnished, or such later date as may be agreed to by the Secretary's delegate.

(b) If, as a result of negotiations between the Department and the State, the submittal of a plan amendment, a change in the State program or other actions by the State, any issue is resolved in whole or in part, but new or modified issues are presented, as specified by the Secretary's delegate, the hearing shall proceed on such new or modified issues.

(c) (1) If at any time, whether prior to during or after the hearing the Secretary's delegate finds that the State has come into compliance with Federal requirements on any issue in whole or in part he shall remove such issue from the proceedings in whole or in part as may be appropriate. If all issues are removed he shall terminate the hearing.

(2) Prior to the removal of any issue from the hearing in whole or in part the Secretary's delegate shall provide all parties other than the Department and the State (see § 1386.94(b)) with the statement of his intention and the reasons therefor and a copy of the proposed State plan provision on which the State and he have settled and the parties shall have oportunity to submit in writing within 15 days, for the consideration of the Secretary's delegate and for the record, their views as to, or any information bearing upon, the merits of the proposed plan provision and the merits of the reasons of the Secretary's delegate for removing the issue from the hearing.

(d) The issues considered at the hearing shall be limited to those issues of which the State is notified as provided in § 1386.90 and paragraph (a) of this section, and new or modified issues described in paragraph (b) of this section, and shall not include issues or parts of issues removed from the proceedings pursuant to paragraph (c) of this section.

§ 1386.94 Request to participate in hearing.

(a) The Department and the State are parties to the hearing without making a specific request to participate.

(b) (1) Other individuals or groups may be recognized as parties, if the issues to be considered at the hearing have caused them injury and their is within the zone of interests to be protected by the governing Federal statute.

(2) Any individual or group wishing to participate as a party shall file a petition with the DDO Hearing Clerk within 15 days after notice of the hearing has been published in the Federal Register, and shall serve a copy on each party of record at that time in accordance with § 1386.85(b). Such petition shall concisely state (i) petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitioner intends to present witnesses.

(3) Any party may, within 5 days of receipt of such petition, file comments thereon.

(4) The presiding officer shall promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the presiding officer may request all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners. The presiding officer shall give each petitioner written notice of the decision on his petition, and if the petition is denied, he shall briefly state the grounds for denial.

(c) (1) Any interested person or organization wishing to participate as amicus curiae shall file a petition with the DDO Hearing Clerk before the commencement of the hearing. Such petition shall concisely state (i) the petitioner's interest in the hearing, (ii) who will represent the petitioner, and (iii) the issues on which petitioner intends to present argument. The presiding officer may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome and may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this paragraph.

(2) An amicus curiae may present a brief oral statement at the hearing, at the point in the proceedings specified by the presiding officer. He may submit a written statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs, and shall serve a copy on each party.

HEARING PROCEDURES

§ 1386.100 Who presides.

(a) The presiding officer at a hearing shall be the Secretary's delegate or his designee.

(b) The designation of the presiding officer shall be in writing. A copy of the designation shall be served on all parties.

§ 1386.101 Authority of presiding officer.

(a) The presiding officer shall have the duty to conduct a fair hearing, to avoid delay, maintain order, and make a record of the proceedings. He shall have all powers necessary to accomplish these ends, including, but not limited to, the power to:

(1) Change the date, time, and place of the hearing, upon due notice to the parties. This includes the power to continue the hearing in whole or in part.

(2) Hold conferences to settle or simplify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(3) Regulate participation of parties and amici curiae and require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(4) Administer oaths and affirmations.

(5) Rule on motions and other procedural items on matters pending before him, including issuance of protective orders or other relief to a party against whom discovery is sought.

(6) Regulate the course of the hearing and conduct of counsel therein.

(7) Examine witnesses.

(8) Receive, rule on, exclude, or limit evidence or discovery.

(9) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(10) If the presiding officer is the Secretary's delegate, make a final decision.

(11) If the presiding officer is a hearing examiner, certify the entire record including his recommended findings and proposed decision to the Secretary's delegate.

(12) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551–559.

(b) The presiding officer does not have authority to compel by subpoena the production of witnesses, papers, or other evidence.

(c) If the presiding officer is a hearing examiner, his authority pertains to the issues of compliance by a State with Federal requirements which are to be considered at the hearing, and does not extend to the question of whether, in case of any noncompliance, Federal payments will not be made in respect to the entire State plan or will be limited to categories under or parts of the State plan affected by such noncompliance.

§ 1386.102 Rights of parties.

All parties may:

(a) Appear by counsel or other authorized representative, in all hearing proceedings.

(b) Participate in any prehearing conference held by the presiding officer.

(c) Agree to stipulations as to facts which will be made a part of the record.

(d) Make opening statements at the hearing.

(e) Present relevant evidence on the issues at the hearing.

(f) Present witnesses who then must be available for cross-examination by all other parties.

(g) Present oral arguments at the hearing.

(h) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

§ 1386.103 Discovery.

The Department and any party named in the Notice issued pursuant to § 1386.90 shall have the right to conduct discovery (including depositions) against opposing parties. Rules 26–37 of the Federal Rules of Civil Procedure shall apply to such proceedings; there will be no fixed rule on priority of discovery. Upon written motion, the presiding officer shall promptly rule upon any objection to such discovery action initiated pursuant to this section. The presiding officer shall also have the power to grant a protective order or relief to any party against whom discovery is sought and to restrict or control discovery so as to prevent undue delay in the conduct of the hearing. Upon the failure of any party to make discovery, the presiding officer may, in his discretion, issue any order and impose any sanction (other than contempt orders) authorized by Rule 37 of the Federal Rules of Civil Procedure.

§ 1386.104 Evidentiary purpose.

The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be made at hearings.

§ 1386.105 Evidence.

(a) *Testimony.* Testimony shall be given orally under oath or affirmation by witnesses at the hearing. Witnesses shall be available at the hearing for cross-examination by all parties.

(b) *Stipulations and exhibits.* Two or more parties may agree to stipulations of fact. Such stipulations, or any exhibit proposed by any party, shall be exchanged at the prehearing conference or otherwise prior to the hearing if the presiding officer so requires.

(c) *Rules of evidence.* Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the presiding officer. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues.

§ 1386.106 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at the hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 1386.107 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the

proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 1386.108 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any stipulations, exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 1386.109 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

POSTHEARING PROCEDURES, DECISIONS

§ 1386.110 Posthearing briefs.

The presiding officer shall fix the time for filing posthearing briefs which shall not exceed 20 days after termination of the hearing. Such briefs may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs.

§ 1386.111 Decisions following hearing.

(a) If the Secretary's delegate is the presiding officer, he shall, when the time for submission of posthearing briefs has expired, issue his decision within 60 days.

(b) (1) If a hearing examiner is the presiding officer, he shall, within 30 days of the time for submission of posthearing briefs has expired, certify the entire record, including his recommended findings and proposed decision, to the Secretary's delegate. The Secretary's delegate shall serve a copy of the recommended findings and proposed decision upon all parties, and amici, if any.

(2) Any party may, within 20 days, file with the Secretary's delegate exceptions to the recommended findings and proposed decision and a supporting brief or statement.

(3) The Secretary's delegate shall thereupon review the recommended decision and, within 60 days of its issuance, issue his own decision.

(c) If the Secretary's delegate concludes:

(1) In the case of a hearing under § 1386.2, that a State plan does not comply with Federal requirements, he shall also specify whether the State's total allotment for the fiscal year will not be authorized for the State or whether, in the exercise of his discretion, the allotment will be limited to categories under or parts of the State plan not affected by such noncompliance;

(2) In the case of a hearing pursuant to § 1386.15, that the State is not complying with requirements of the State plan he shall also specify whether further payments will not be made to the State or whether, in the exercise of his discretion, payments will be limited to categories under or parts of the State plan not affected by such noncompliance. The Secretary's delegate may ask the parties for recommendations or briefs or may hold conferences of the parties on these questions.

(d) The decision of the Secretary's delegate under this section shall be the final decision of the Secretary and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 and the "Secretary's action" within the meaning of section 138 of the Act. The Secretary's delegate's decision shall be promptly served on all parties, and amici, if any.

§ 1386.112 Effective date of decision by Secretary's delegate.

(a) If, in the case of a hearing pursuant to § 1386.2, the Secretary's delegate concludes that a State plan does not comply with Federal requirements, and his decision provides that the allotment will be authorized but limited to categories under or parts of the State plan not affected by such noncompliance, his decision shall specify the effective date for the authorization of the allotment.

(b) If, in the case of a hearing pursuant to § 1386.15, the Secretary's delegate concludes that the State is not complying with requirements of the State plan, his decision that further payments will not be made to the State, or payments will be limited to categories under or parts of the State plan not affected, shall specify the effective date for the withholding of Federal funds.

(c) The effective date shall not be earlier than the date of the decision of the Secretary's delegate and shall not be later than the first day of the next calendar quarter.

(d) The provisions of this section may not be waived pursuant to § 1386.84.

PART 1387—DISCRETIONARY GRANT PROGRAMS

Subpart A—University Affiliated Facilities

DEMONSTRATION AND TRAINING GRANTS

Sec.

CONSTRUCTION PROGRAM

Subpart B—Special Project Grants

AUTHORITY: Pub. L. 91-517; Pub. L. 94-103.

Subpart A—University Affiliated Facilities

DEMONSTRATION AND TRAINING GRANTS

§ 1387.1 Purpose of grant funds.

Demonstration and training grants authorized under the Act may be made for the purpose of:

(a) Assisting university affiliated facilities in meeting the cost of administering and operating demonstration facilities for the provision of exemplary services for persons with developmental disabilities, or for interdisciplinary training programs for personnel needed to render specialized services for persons with developmental disabilities;

(b) Supplementing one or more university affiliated facilities funded under these regulations to conduct a feasibility study of the ways in which a satellite center can be established and operated in areas not presently served by a university affiliated facility. These satellite centers shall provide services to persons with developmental disabilities in coordination with existing facilities funded under these regulations or from any other Federally supported program. Supplemental grants to university affiliated facilities for a feasibility study may not exceed $25,000; and

(c) Paying part of the costs of establishing and assisting satellite centers in meeting part of their administration and operation costs.

§ 1387.2 Application content.

Applications for demonstration and training grants may be submitted at the time and in the manner and detail prescribed by the Secretary in guidelines, and shall include the following:

(a) In the case of grants to university affiliated facilities for administration and operation and demonstration facilities and interdisciplinary training programs, evidence of how such university affiliated facility shall provide (1) interdisciplinary training programs for personnel needed to render specialized services to persons with developmental disabilities, and (2) services for persons with developmental disabilities by the operation of demonstration facilities;

(b) In the case of applications for an increase in the amount of a demonstration and training grant to meet the cost of conducting a feasibility study, assurances that such study shall be carried out in consultation with the State planning council for the State in which the facility is located and where the satellite center would be established; and according to guidelines to be issued by the Secretary;

(c) In the case of an application for a grant to establish or to administer and operate a satellite center(s), a copy of the feasibility study which documents the need for such satellite, conducted in accordance with section 121(a)(2) of the Act;

(d) For all applications, an assurance that the services and training programs to be supported are licensed, if necessary,

according to the applicable State law(s) and also meet appropriate accreditation standards;

(e) For all applications, reasonable assurance that the grant will not result in decreased State, local, or other non-Federal funds for services for persons with developmental disabilities and for the training of personnel to provide such services; and

(f) For all applications, a statement describing the general methodology by which the project will be evaluated to determine whether objectives have been achieved.

§ 1387.3 Eligible applicants.

The applicant must be a public or nonprofit university affiliated facility or a satellite which has been found eligible to operate such a center.

§ 1387.4 Priority.

In approving applications, the Secretary shall give priority consideration to those programs which demonstrate an ability and commitment to provide within a community, rather than in an institution, services for persons with developmental disabilities.

CONSTRUCTION PROGRAM

§ 1387.10 Purpose.

The Secretary may make grants to university affiliated facilities to assist (a) in meeting the costs of the renovation or modernization of buildings which are being used in connection with an activity assisted by a demonstration and training grant; and (b) for the construction, renovation, or modernization of buildings to be used as satellite centers.

§ 1387.11 Application form.

An application shall be submitted in such form and manner and contain such information as the Secretary may require in addition to assurances required in § 1387.12.

§ 1387.12 Application assurances.

An application for a construction grant under this subpart may be approved by the Secretary only if it is supported by such reasonable assurances as may be required by law or executive order:

(a) The application for assistance is consistent with the appropriate State developmental disabilities plan;

(b) The application has been reviewed and commented upon by the appropriate State council;

(c) The facilities upon completion of construction will meet standards set forth in § 1386.17;

(d) The plans and specifications for the project to be assisted by the grant applied for are in accordance with § 1386.17(b);

(e) Title to the site for such project is or will be vested in the applicant or, in the case of a satellite center, in a public or other nonprofit entity which is to operate the center;

(f) Adequate financial support will be available in conformance with requirements of § 1386.1(b)(5)(viii) of these regulations;

(g) All laborers and mechanics will be paid in accordance with requirements set forth in § 1386.1(b)(5)(ix);

(h) No amendment to an approved application resulting in a substantial change in scope of work, function, or safety of the facility shall be put into effect without prior approval of the Secretary.

§ 1387.13 Approval of applications.

Applications under this subpart shall be reviewed by the Secretary who shall approve or disapprove the proposed project in whole or in part on the basis of established criteria.

§ 1387.14 Priority.

In approving applications under this subpart, the Secretary shall give priority consideration to university affiliated facilities funded under this Subpart for costs of renovating or modernizing existing buildings to enable them to comply with the Architectural Barriers Act of 1968.

Subpart B—Special Project Grants

§ 1387.20 Eligible projects.

Special project grants may be made to assist in meeting the costs of conducting an activity or program, hereinafter referred to as "project," that is intended and designed to benefit persons with developmental disabilities. No project (other than projects of national significance) shall be eligible unless the State or States in which it will be conducted has a State plan approved under Part 1386, Subpart A of this chapter, and unless it addresses one or more of the following:

(a) Demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped), including programs for parent counseling and training, early screening and intervention, infant and preschool children, seizure control systems, legal advocacy, and community-based counseling, care, housing, and other services or systems necessary to maintain a person with developmental disabilities in the community;

(b) Public awareness and public education programs to assist in the elimination of social, attitudinal, and environmental barriers confronted by persons with developmental disabilities;

(c) Coordinating and using all availability community resources in meeting the needs of persons with developmental disabilities (especially those from disadvantaged backgrounds);

(d) Demonstrations of the provision of services to persons with developmental disabilities who are also disadvantaged because of their economic status;

(e) Technical assistance relating to services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration respecting such services and facilities;

(f) Training of specialized personnel needed for the provision of services for persons with developmental disabilities or for research directly related to such training;

(g) Developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities (including model integrated service projects);

(h) Gathering and disseminating information relating to developmental disabilities; and

(i) Improving the quality of services provided in and the administration of programs for such persons.

The Secretary may establish criteria for projects designed to achieve the purposes of the Act to the fullest extent possible within the limitation of available Federal resources.

§ 1387.21 Nonduplication of Federal funds.

In determining the amount of any grant for the costs of any project under this subpart, there shall be excluded, except as otherwise provided by statute enacted subsequent to December 18, 1975, from such costs an amount equal to the sum of (a) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project under any provision of law enacted prior to October 4, 1975, and (b) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

§ 1387.22 Eligible applicants.

Applications may be made by public and other nonprofit agencies, organizations, and institutions.

§ 1387.23 Application content and procedures.

(a) Applications for grants under this subpart shall be submitted in the form and detail, and in accordance with procedures and deadline dates, as prescribed by the Secretary in guidelines.

(b) The applicant shall provide, concurrently, a copy of an application for a grant under this Subpart to the appropriate State planning council for review and comment at the time the application is submitted to the Secretary. Comment with regard to a particular application must be submitted to the Secretary by the State planning council within 30 days from the date of submission by the applicant in order to assure consideration of such comments.

[FR Doc.76-25047 Filed 8-27-76;8:45 am]

federal register

MONDAY, AUGUST 30, 1976

PART III:

ENVIRONMENTAL PROTECTION AGENCY

■

PETROLEUM REFINERY FLUID CATALYTIC CRACKING UNIT CATALYST REGENERATORS

Proposed Standards of Performance for New Stationary Sources

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 594-4]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators

Under the authority of section 111 of the Clean Air Act, as amended, the Administrator is proposing a revision to 40 CFR 60.102(a)(2), and 60.105(e)(1), opacity standard of performance for new, modified, and reconstructed petroleum refinery fluid catalytic cracking unit catalyst regenerators.

PROPOSED REVISION

The proposed revision would change the opacity standard from 30 percent, except for three minutes in any one hour, to 25 percent, except for two six-minute average opacity readings in any one hour. The revised standard would be neither more nor less stringent than the present standard, but would be consistent with the new provisions for determining the opacity of emissions.

RATIONALE

On June 29, 1973, the U.S. Court of Appeals for the District of Columbia circuit remanded to EPA the new source performance standard for portland cement plants (40 CFR 60.62) promulgated under section 111 of the Clean Air Act (*Portland Cement Association* v. *Ruckelshaus*, 486 F. 2d 375). One of the issues remanded was the use of opacity standards. On November 12, 1974, EPA responded to the remand (39 FR 39872); and on May 22, 1975, the Court affirmed the use of opacity standards (513 F. 2d 506).

In the response, EPA reconsidered the use of opacity standards and concluded that they are a reliable, inexpensive, and useful means of ensuring that control equipment is properly maintained and operated at all times. EPA also made changes to the general provisions of 40 CFR Part 60 and to the test method for determining the opacity of emissions to eliminate the possibility of a properly maintained and operated source being in violation of the applicable opacity standard while concurrently meeting a mass or concentration emission standard applicable to the source.

The principal revisions to the regulations (40 CFR Part 60, Standards of Performance for New Stationary Sources) which apply to all opacity standards are as follows:

1. Reference Method 9 (the opacity test method) was revised to base compliance on the average of 24 consecutive opacity observations, each taken at 15-second intervals (six-minute average), and to define the maximum error associated with each set of opacity observtaions. The revision changing the averaging time to six minutes was included to require sufficient observation to ensure acceptable accuracy within the maximum average error referenced in Method 9. The use of sets of opacity data will preclude a single high reading from being cited as a violation.

2. Section 60.11(e) was added to provide a generally applicable mechanism for any owner or operator to petition the Administrator to obtain a higher opacity standard for any facility that demonstrates compliance with the mass or concentration emission standard concurrent with failure to comply with the opacity standard. This provision provides relief to those source owners and operators who install unusually large diameter stacks or whose emissions have unusual characteristics which could cause the opacity of the emissions to be greater than is typical for other plants in the same source category. The provision allows the promulgated opacity standards to be based on the maximum effects of particle characteristics and stack diameters at well-controlled new installations, and ensures that no owner or operator of an affected facility will be prejudiced if the facility is not able to meet the opacity standard while meeting the mass or concentration emission standard.

As a result of the revisions to Method 9, EPA has reevaluated the opacity standard for fluid catalytic cracking unit catalyst regenerators and concluded that it should be revised. This proposed revision of the opacity standard is consistent with the particulate emission standard for fluid catalytic cracking unit catalyst regenerators of 1.0 kilogram per 1000 kilograms of coke burn-off in the catalyst regenerator.

The proposed revision of the opacity standard is based primarily upon a reevaluation of the data gathered on facility A of the background document supporting promulgation of the opacity standard (*Background Information for New Source Performance Standards: Asphalt Concrete Plants, Petroleum Refineries, et al., Volume 3, Promulgated standards*, EPA-450/2-74-003, February 1973). Six-minute average opacity readings calculated from these data indicated that opacity seldom exceeded 20 percent, except during periods of soot blowing. Emission testing clearly indicated that this facility was meeting the particulate emission standard at the time these opacity data were gathered.

Three different emission control systems can be installed to comply with the particulate and carbon monoxide standards of performance. These systems are shown in Figure 1. The volume of gases discharged from control system 3 is about 30 percent greater than the volume of gases discharged from either control system 1 or 2. Consequently, the opacity of the gases discharged from system 3 is lower than that of the gases discharged from the other two systems. Facility A employed emission control system 3.

The opacity observed at facility A, therefore, is somewhat lower than that which would be observed at facilities which employed either emission control system 1 or 2. Extrapolating the opacity data from facility A using Bouger's Law indicates that the opacity at facilities using either of these other two emission control systems would not exceed 25 percent. Thus, the revised opacity standard is proposed at 25 percent.

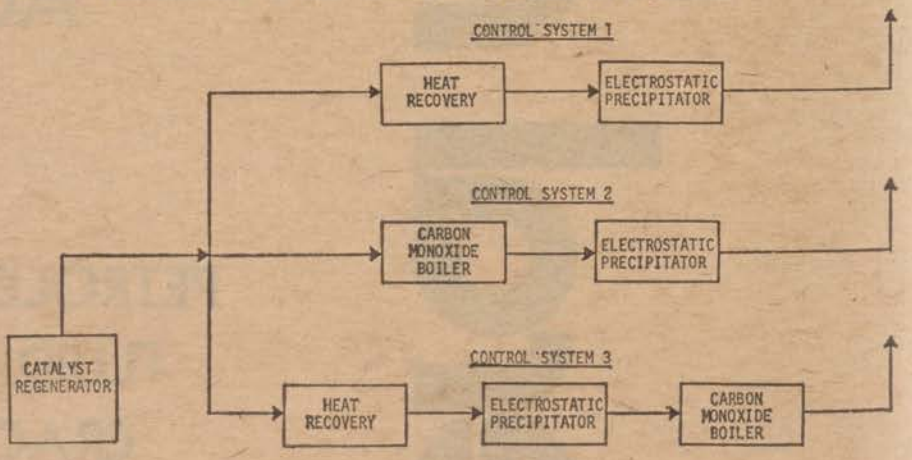

FIGURE 1. Alternative Emission Control Systems

Another factor which influences opacity, but not particulate emissions (in terms of the emission standard), is stack diameter. Generally, the larger the size of a fluid catalytic cracking unit, the larger the stack diameter. Facility A is about 50,000 barrels per day. Although the size of fluid catalytic cracking units may vary from 5,000 to 95,000 barrels per day, the typical facility within the petroleum refining industry is in the range of 25,000 to 50,000 barrels per day. The influence of this wide range in the size of fluid catalytic cracking units on opacity of the gases discharged from the catalyst regenerator can be calculated using Bouguer's Law. With particulate emissions of 1.0 kilogram per 1000 kilograms of coke burn-off, the opacity varies from as little as 10 percent for the smallest units (5,000 barrels per day) to as much as 40 percent for the largest units (95,000 barrels per day).

New fluid catalytic cracking units, however, are expected to be in the range of 25,000 to 50,000 barrels per day. Currently, there is only one 95,000 barrels-per-day unit, and only a few larger than 50,000 barrels per day. The proposed revision of the opacity standard, therefore, is based on the largest new fluid catalytic cracking unit that is likely to be built (i.e. 50,000 barrels per day). If fluid catalytic cracking units larger than

50,000 barrels per day are built, or existing units are modified or reconstructed, and these facilities have trouble meeting the proposed revised opacity standard, relief can be obtained through the mechanism of § 60.11(e).

At most fluid catalytic cracking units, carbon monoxide emissions are controlled by carbon monoxide boilers. Periodically, the boiler tubes require soot blowing to remove dust or soot deposited on these tubes. Soot blowing increases the opacity of the plume from the catalyst regenerator dramatically, although only momentarily. Rather than increase the level of the opacity standard to include soot blowing, therefore, it is more appropriate to provide an exemption from the standard. The opacity data indicate that an exemption of two six-minute average opacity readings per hour is necessary to permit soot blowing. Thus, an exemption for soot blowing is included in the proposed revision to the opacity standard.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect emission limits achievable with the best adequately demonstrated systems of emission reduction considering the cost of such system. State implementation plans (SIP's) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources. In addition, States are free under section 116 of the Act to establish more stringent emission limits than those established under section 111 or thos necessary to attain or maintain the NAAQS under section 110. Thus, new and existing sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111.

PUBLIC PARTICIPATION

Interested persons may participate in this proposed rulemaking by submitting written comments (in triplicate) to the Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin. The Administrator will welcome comments on all aspects of the proposed revision.

All relevant comments received on or before October 29, 1976 will be considered. Comments received will be available for public inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C.

Background information on this proposed revision of the opacity standard for petroleum refinery fluid catalytic cracking unit catalyst regenerators has been published in a document "Reevaluation of Opacity Standards of Performance: Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators." Copies of this document may be obtained by writing to the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460 (specify Reevaluation of Opacity Standards of Performance: Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators).

AUTHORITY

This notice of proposed rulemaking is issued under authority of sections 111, 114, and 301(a) of the Clean Air Act, as amended by section 4(a) of Public Law 91-604, 84 Stat. 1678 and by section 15(c)(2) of Public Law 91-604, 84 Stat. 1713 (42 U.S.C. 1857c-6, 1857c-9, and 1857g(a)).

Dated: August 19, 1976.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend Part 60, Chapter I of Title 40 of the Code of Federal Regulations as follows:

1. Section 60.102(a)(2) is revised to read as follows:

§ 60.102 Standard for particulate matter.

(a) * * *

(2) Gases exhibiting greater than 25 percent opacity, except for two six-minute average opacity readings in any one hour. Where the presence of uncombined water is the only reason for failure to meet the requirements of this subparagraph, such failure shall not be a violation of this section.

* * * * *

2. Section 60.105(e)(1) is revised to read as follows:

§ 60.105 Emission monitoring.

* * * * *

(e) * * *

(1) *Opacity.* All hourly periods in which there are three or more six-minute average opacity readings during which the average opacity of the gases discharged into the atmosphere from any fluid catalytic cracking unit catalyst regenerator subject to § 60.102 exceeds 25 percent.

* * * * *

[FR Doc.76-25080 Filed 8-27-76;8:45 am]

federal register

MONDAY, AUGUST 30, 1976

PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

■

MUTUAL MORTGAGE INSURANCE

Servicing Requirements

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 203]

[Docket No. R–76–406]

MUTUAL MORTGAGE INSURANCE

Servicing Requirements

Notice is hereby given that the Secretary of Housing and Urban Development proposes to amend the regulations appearing in Part 203 of Chapter II of 24 CFR concerning Mutual Mortgage Insurance and Insured Home Improvement Loans to update these regulations and include therein certain mortgage servicing requirements. With minor exceptions all of these proposed changes reflect existing requirements developed over the course of years which heretofore have been set forth in HUD notices and handbooks without any corresponding revision of the program regulations. These proposed amendments would update some provisions of the regulations and establish a new Subpart C devoted to mortgage servicing concerns.

The numbering of the following discussion of the changes made by the proposed amendments corresponds to the paragraphs of the proposed amendments.

1. The table of sections for Part 203 of Chapter II of 24 CFR is modified to reflect certain changes in Subparts A and B and list the contents of the Subpart C on mortgage servicing.

2. Section 203.7 is amended to add as an additional basis for the withdrawal of mortgagee approval the breach of duties imposed by or the violation of prohibitions contained in any section of Part 203. This clarification of the existing rule is proposed in order to make mortgagees more clearly aware of the conduct expected of them and the availability of the sanction of withdrawal of mortgagee approval to deal with those whose conduct does not measure up to appropriate standards. It is proposed to make this clarification effective thirty days following publication of the final rule.

3. The substance of § 203.9 on mortgage servicing will be treated in Subpart C. See §§ 203.500(b), 203.502 and 203.604(a), for the disposition of the substance of § 203.9. A new § 203.9 dealing with approval requirements as to staffing and facilities is derived in part from Paragraph 5 of HUD Handbook 4191.1, "Administration of Insured Home Mortgagees," hereinafter "Handbook".

4. Section 203.23 dealing with the monthly charges to be paid by the mortgagor would be amended to protect against charging mortgagors with the premium for insurance which is solely for the benefit of the mortgagees. This requirement is currently stated in Paragraph 28 of HUD Handbook 4191.1.

5. Section 203.25 would be amended to increase the late charge from two to four per cent. While a late charge would not be deductible from the initial installment payment to which it is attributable, such a charge would be collectible by deduction from subsequent payments as provided in Section 203.554 of the regulations as amended. The increase in the amount of the late charge which can be provided for in future mortgages is intended to cover the increased expenses involved in collecting and handling delinquent payments. Increased charges will also encourage prompt payment and bring these charges in line with those obtaining in certain conventional and VA loans.

6. Section 10 of the Real Estate Settlement Procedures Act, 12 U.S.C. 2609, now governs advance deposits in escrow accounts. Section 203.26 of the regulations would be amended to make that Section consistent with RESPA particularly as the regulation is applied in jurisdictions where taxes are collected the year following the tax year.

7. Subpart B of the regulations constitutes the insurance contract between the mortgagee and HUD. The seventh amendment would make a technical correction consistent with this arrangement of the regulations.

8. Section 203.261 on calculation of the annual mortgage insurance premium is amended to add the substance of the last sentence of § 203.345. The remaining provisions of that Section are being moved to § 203.610 in Subpart C.

9. Section 203.330 would be amended to change its caption from "Definition of default" to "Delinquency and default" and to provide that a mortgage account is delinquent any time a payment is due and not paid. See Paragraph 102a of the Handbook.

10. Section 203.332 would be amended to conform to the installation of HUD's new Single Family Default and monitoring System. The caption would be amended consistent with the delinquency reporting provided for.

11. Section 203.333 on reinstatement of defaulted mortgages would be deleted from Subpart B as this subject will be dealt with in § 203.608 in Subpart C.

12. Sections 203.340 and 203.342 on conditions of special forebearance relief and recasting of mortgages would be deleted from Subpart B as the substance thereof will be included in §§ 203.614 and 203.616, in Subpart C.

13. Section 203.341 would be redesignated as Section 203.402a under the heading of "Payment of Insurance Benefits", a more appropriate location for this rule. The first sentence has been modified to cross reference § 203.614 on "Conditions of Special Forbearance" in Subpart C.

14. A new § 203.343 would be added dealing with the release, addition or substitution of security. These regulatory materials are now found in Paragraphs 45 and 47 of the Handbook.

15. Sections 203.345, 203.346 and 203.350 would be deleted from Subpart B as forbearance relief for military personnel would be treated in § 203.610 in Subpart C. Section 203.350a would be renumbered 203.350 and modified to refer to the provisions of Subpart C dealing with assignments of mortgages to the Secretary.

16. Section 203.355 on acquisition of mortgaged property would be amended to include requirements now found in Paragraphs 141 and 142 of the Handbook.

17. Section 203.375 would be renumbered 203.378 and a new § 203.377 would be added to set forth the duty of mortgagees to take appropriate action to inspect, protect and preserve vacant and abandoned properties. Compare Paragraphs 112 and 145 of the Handbook.

18. A new sentence would be added to § 203.375(b), redesignated as 203.378(b), to avoid any inconsistency with § 203.377 concerning the responsibility of mortgagees with respect to damage to or destruction of security properties. Fiscal responsibility would apply prospectively.

19. The section heading and first sentence of § 203.379 on adjustment for fire, flood, earthquake or tornado damage, would be amended to make this section consistent with §§ 203.377 and 203.378 as they would be added and amended respectively.

20. Paragraph (b)(3) of § 203.379 would be amended to update its language and to include requirements now contained in Paragraph 29 of the Handbook.

21. The first sentence of § 203.380 on certificate of property condition would be adjusted to require that the mortgagee's certification as to the condition of security property, when the property is transferred to HUD or the mortgage is assigned to HUD, include the condition of property which was damaged due to its failure to exercise the precautions required by § 203.377 on a prospective basis. Alternatively a copy of HUD's authorization to convey the property in damaged condition could be furnished.

22. A new paragraph (o) would be added to § 203.389 on waived title objections to deal with outstanding Federal Tax liens and associated rights of redemption. Compare Paragraph 144c of the Handbook.

23. Section 203.402(f) would be amended by adding a sentence making it clear that eviction costs are reimbursable in the insurance settlement. Compare Paragraph 145(a)(1) of the Handbook. Paragraph (g) would authorize reimbursement for reasonable costs of inspections required by § 203.377.

24. Amendment 22 would add a new Subpart C on mortgage servicing responsibilities to Part 203 of 24 CFR. The derivation or purpose of these Subpart C provisions is explained in succeeding subparagraphs.

a. Section 203.500(a) on mortgage servicing generally is taken from the first sentence of § 203.9 of the current regulations with the addition of a reference to the servicing requirements of Subpart C. Paragraphs (b), (c) and (d) dealing with servicing staff and the education of borrowers or mortgagors reiterate existing requirements found in Paragraphs 5 and 6 of the Handbook.

b. Section 203.502 sets forth existing practice with respect to the utilization of mortgage servicers. This Section restates requirements currently found in Paragraphs 3 and 4 of the Handbook and in Mortgagee Letter 75–10.

c. Section 203.506 dealing with assumption with or without the release of the mortgagor sets forth the mortgagees authority to release a mortgagor and related notice requirements. Compare Paragraph 94 of the Handbook.

d. Section 203.508 concerns the obligation of an insured mortgagee to provide information. See Mortgagee Letter 75–10.

e. Section 203.510 makes clear the mortgagee's obligation to inspect, protect and preserve vacant and abandoned security property regardless of the date on which the relevant loans were insured.

f. Section 203.550 dealing with escrow accounts includes requirements now found in Paragraphs 21 through 27 of the Handbook.

g. Section 203.552 on fees and charges after endorsement is derived from Paragraphs 61–62 and 64–71 of the Handbook.

h. Section 203.554 would direct that a mortgagee not institute foreclosure when the only default on the part of a mortgagor is his failure to pay a late charge or charges. A late charge would not be deductible from the installment to which the late charge is attributable. However, it could be collected by deduction from a subsequent installment or installments if the mortgagee gives notice as provided therein that the late charge is due and if this is not inconsistent with the terms of the mortgage.

i. Section 203.556 is derived primarily from Mortgagee Letter 75–10 with respect to the handling of partial payments. Adjustment has been made for the deduction of late charges as provided in § 203.554 but with the provision that the mortgagee not return or initiate foreclosure on account of payments which are rendered partial payments solely because of the deduction of late charges.

j. Section 203.558 includes instructions covering the handling of partial prepayments. See Paragraph 81 of the Handbook.

k. Section 203.600 on collecting mortgage accounts follows Paragraphs 101 and 104 of the Handbook.

l. Section 203.602 imposes a definite duty upon mortgagees to furnish defaulting mortgagors a delinquency notice as a minimum notice requirement. Compare Paragraph 107c of the Handbook and the revised form of notice provided with Mortgagee Letter 75–10.

m. Section 203.604, which is taken primarily from Paragraph 107 of the Handbook and Paragraph 4b of Mortgagee Letter 75–10, specifies the actions which the mortgagee must take to contact the delinquent mortgagor and have a face-to-face meeting with him if possible.

n. Section 203.606 on pre-foreclosure review, which is added for the protection of mortgagors, restates the substance of Mortgagee Letter 75–10 and Paragraph 110 of the Handbook.

o. Section 203.608 incorporates requirements of Mortgagee Letter 75–10 with respect to reinstatement.

p. Section 203.610 on relief for mortgagor in military service reiterates the substance of Section 203.345 and that part of § 203.346, which would be eliminated from Subpart B.

q. Section 203.612 entitled "Forbearance by the mortgagee" is derived in part from Mortgagee Letter 75–10 and Paragraph 110 of the Handbook.

r. Section 203.614 on "Conditions for Special Forbearance" is derived from § 203.340 which would be deleted from Subpart B.

s. Section 203.616 on recasting is derived from § 203.342 now in Subpart B.

t. Sections 203.650 through 203.662 are taken from HUD's HM Mortgagee Letter 76–9 dated May 17, 1976 and HUD's HM Notice 76–43 dated the same date. Section 203.650 generally states that the Secretary will accept assignments of mortgages in order to avoid foreclosure under the conditions set forth in succeeding sections. Section 203.652 identifies Mortgages which are ineligible for such assignment. Section 203.654 defines the criteria which must be met for a mortgage to be eligible for assignment to HUD under this special program. Section 203.656 specifies when the mortgagor must be given notice by the mortgagee in connection with the assignment program. Section 203.658 outlines procedures for mortgagor applications to HUD when mortgagees do not request that HUD accept assignments under this forbearance program. Section 203.660 outlines requirements with respect to scheduling a conference involving HUD and defaulting mortgagors and the availability of records for examination. Ground rules for the conference are spelled out and provision is made for notifying the mortgagor of the results of the conference. Section 203.662 outlines the cooperation required of mortgagees in connection with the implementation of the assignment program.

u. Section 203.700 would make Subpart C effective thirty days following publication of a final rule in the FEDERAL REGISTER. Most of the requirements of this Subpart are already effective although not in rule form. While the failure of mortgagees to observe the requirements of Subpart C will not result in denial of their mortgage insurance claims, it is important that proper mortgage servicing standards be observed. Failure to observe such standards can be considered in conjunction with the possible withdrawal of approval of mortgagees. See § 203.7 discussed above.

Consideration has been given to the measures which can be taken to enforce mortgage servicing requirements. The strengthening of the sanction of withdrawal of mortgagee approval is the first line of approach to assuring mortgagee compliance with these regulations. As just noted, this strengthened sanction would be applied almost immediately. The sanction of requiring repair or the pro tanto denial of insurance claims for failure to inspect, protect and repair provided by §§ 203.277 through 203.279 would be applicable with respect to properties on which mortgages are insured or commitments to insure are issued after the effective date of these regulations. This specific sanction could not be made effective immediately because of Constitutional constraints. However, failure to properly inspect, protect and repair vacant and abandoned properties would be a factor which could be considered in connection with the possible withdrawal of mortgagee approval on an almost immediate basis. These sanctions should provide for substantially improved mortgage servicing performance by those mortgagees who do not already freely and voluntarily observe the standards set forth in the regulations as they would be modified by these proposed amendments.

Interested persons may participate in this rule making by submitting written data, views or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Each person submitting a comment should include his name and address and refer to this document by the docket number indicated in the heading and give reasons for any recommendation. Comments received by October 1, 1976, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. The proposal may be changed in the light of the comments received.

The Department has determined that an Environmental Impact Statement is not required wtih respect to this rule. A copy of the Finding of Inapplicability is available for inspection at the above address.

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

Accordingly, the Secretary of Housing and Urban Development proposes to amend Part 203, of Chapter II of 24 CFR as follows:

1. The table of sections for Part 203 of Chapter II is amended in the following respects:

(a) Sections 203.333, 203.340, 203.341, 203.342, 203.345, 203.346, 203.350a, and 203.375, and the centered caption preceding § 203.345 are deleted.

(b) The following sections are retitled as shown:

Sec.	
203.9	Staffing and facilities.
203.330	Delinquency and default.
203.332	Notice of delinquency.
203.350	Assignment of defaulted mortgage.
203.377	Inspection and preservation of properties.
203.378	Property condition.
203.379	Adjustment for damage or neglect.
203.402a	Reimbursement for uncollected interest.

(c) A new section 203.343 is added as follows:

Sec.	
203.343	Partial release, addition or substitution of security.

2. Section 203.7 is amended by redesignating paragraph (a)(7) as (a)(8) add-

ing a new paragraph (a)(7) and paragraph ( ) to read as follows:

§ 203.7 Withdrawal of approval.

(a) * * *

(7) The breach of duties imposed by or the violation of prohibitions contained in this Part.

* * * * *

(c) Notwithstanding § 203.249 of this Subpart, Paragraph (a)(7) of this section shall be effective thirty days from the publication of this amendment.

3. Section 203.9 is revised to read:

§ 203.9 Staffing and facilities.

Mortgagees shall have or arrange for adequate staff and facilities with trained personnel competent in all aspects of mortgage lending activities, including underwriting, servicing and field collection activities.

4. Section 203.23 is amended by redesignating paragraph (b) as paragraph (c) and by inserting a new paragraph (b) reading as follows:

§ 203.23 Mortgagor's payments to include other charges.

* * * * *

(b) The mortgagor shall not be required to pay premiums for fire or other hazard insurancee which protects only the interests of the mortgagee or for life or disability income insurance or fees charged for the furnishing of information necessary for payment of property taxes.

* * * * *

5. Section 203.25 is revised to read:

§ 203.25 Late charge.

The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed four per cent of the amount of each payment more than 15 days in arrears, to cover the extra expense involved in collecting and handling delinquent payments and as an incentive for timely payment.

6. Section 203.26 is revised to read as follows:

§ 203.26 Mortgagor's payments when mortgage is executed.

The mortgagor must pay to the mortgagee, upon execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the last date on which each such charge would have been paid under the normal lending practices of the lender and local custom (if each such date constitutes prudent lending practice), and ending on the due date of the first full installment payment under the mortgage, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment under the mortgage. The mortgagee may also collect from the mortgagor a sum not exceeding one-sixth of the estimated total amount of such taxes, special assessments, insurance premiums and other charges to be paid during the ensuing 12 month period.

§§ 203.251 and 203.257 [Amended]

7. Sections 203.251(j) and 203.257 are amended by changing the words "part" therein to read "Subpart".

8. Section 203.261 is amended to add the following sentence at the end thereof:

§ 203.261 Calculation of MIP.

* * * A written agreement to postpone payments during the military service of the mortgagor (§ 203.610) will in no way affect the amount of the annual MIP which will continue to be calculated in accordance with the original amortization provisions of the mortgage.

9. Section 203.330 is revised to read:

§ 203.330 Delinquency and default.

A mortgage account is delinquent any time a payment is due and not paid. If the mortgagor fails to make any payment, or to perform any other obligation under the mortgage, and such failure continues for a period of 30 days, the mortgage shall be considered in default for the purposes of this Part.

10. Section 203.332 is to read:

§ 203.332 Notice of delinquency.

Once each month the mortgagee shall report or cause to be reported all mortgages insured under this part which are 90 or more days delinquent and concerning the status of all mortgages which were reported as 90 or more days delinquent the previous month. Such reports shall be made on a form approved by the Commissioner.

§ 203.333 [Removed]

11. Section 203.333 is hereby deleted from Subpart B.

§§ 203.340 and 203.342 [Removed]

12. Sections 203.340 and 203.342 and the caption "Special Forbearance Relief" immediately preceding § 203.340 are hereby deleted from Subpart B.

13. A new § 203.343 is added reading as follows:

§ 203.343 Partial release, addition or substitution of security.

(a) Except as provided in § 203.389(n), a mortgagee shall not release the security, or any part thereof, wtihout the prior consent of the Commissioner.

(b) A mortgagee may, with the prior consent of the Commissioner, accept an addition to, or substitution of, security for the purpose of removing the dwelling to a new lot under the following conditions:

(1) The mortgagee obtain a good and valid first lien on the property to which the dwelling is removed.

(2) All damages to the structure are repaired without cost to HUD.

(3) The property to which the dwelling is removed is in an area known to be reasonably free from natural hazards or, if in a flood zone, the mortgagor will insure or reinsure under the Federal Flood Insurance Program.

(c) A mortgagee may, without the prior consent of the Commissioner, accept an addition to, or substitution of, security for the purpose of removing the dwelling to a new lot under the following conditions.

(1) The dwelling has survived an earthquake or other disaster with little damage, but continued location on the property might be hazardous.

(2) The mortgagee reasonably believes that the conditions stated in paragraph (b) of this section exist.

(3) Immediately following the emergency removal the mortgagee notifies the Commissioner of the reasons for removal.

§§ 203.345, 203.346, and 203.350 [Removed]

14. §§ 203.345, 203.346 and 203.350 and the caption "Forbearance Relief for Military Personnel" preceding § 203.345 are deleted from Subpart B.

15. Section 203.350a is redesignated as § 203.350 and amended to read:

§ 203.350 Assignment of defaulted mortgage.

When the assignment of a defaulted mortgage to the Commissioner is accomplished pursuant to § 203.650 the mortgagee shall file the assignment of the mortgage to the Commissioner for record within 30 days of the Commissioner's written approval of such assignment.

16. Section 203.355 is revised to read:

§ 203.355 Acquisition of property.

The mortgagee shall take prompt action to acquire the mortgaged property when the mortgagor has defaulted and either cannot or will not resume and complete payments. In any event, one of the following actions shall be taken by the mortgagee within one year from the date of default, or within such additional period of time as may be approved by the Secretary or authorized by §§ 203.610 or 203.662(d).

(a) The mortgagee shall obtain a deed in lieu of foreclosure (see §§ 203.357, 203.389 and 203.402(f)) with title being taken in the name of the mortgagee or the Secretary:

(b) The mortgagee shall commence foreclosure; or

(c) If the laws of the State in which the mortgaged property is situated do not permit the commencement of foreclosure within one year from the date of default, the mortgagee shall commence foreclosure within sixty days after the expiration of the time during which such foreclosure is prohibited by such laws.

17. Section 203.377 is added as follows:

§ 203.377 Inspection and preservation of properties.

The mortgagee shall arrange for the periodic inspection of security properties which may be vacated or abandoned, if the loans thereon, which are insured un-

der this Part, are in default. The mortgagee shall protect and preserve vacated or abandoned security properties until their conveyance to the Commissioner if such action does not constitute an illegal trespass.

18. Section 203.375 is redesignated as § 203.378 and paragraph (b) is amended by adding the following sentence at the end thereof.

§ 203.378 Property condition.

* * * * *

(b) * * * However, the mortgagee shall be responsible for damage to or destruction of security properties on which the loans insured under this Part are in default and which properties are vacated or abandoned if the mortgagee fails to take action as required by § 203.377, as to all mortgages insured or for which commitments to insure are issued on and after ( ).

19. The section heading and the introductory text of § 203.379 are amended to read:

§ 203.379 Adjustment for damage or neglect.

If the security property has been damaged by fire, flood, earthquake, or tornado, or as to mortgages insured or for which commitments to insure are issued on or after , has suffered damage due to failure of the mortgagee to take action as required by § 203.377, such damage shall be repaired prior to conveyance of the property to the Secretary, except in the following instances:

* * * * *

20. Paragraph (b)(3) of § 203.379 is amended to:

(a) Insert the words "including coverage under the FAIR Plan" after the words "competitive rates" in the last sentence, and

(b) Add the following additional language at the end thereof: A "reasonable rate" is a rate not more than 25 percent in excess of the rate or the advisory rate filed or used by the principal rating organization doing business in the State. When hazard insurance coverage has been cancelled or renewal has been refused after the mortgage is insured, and other hazard insurance coverage cannot be obtained in an amount equal to the unpaid principal balance of the loan but insurance can be obtained in a reduced amount from a FAIR Plan or another insurance carrier, the Commissioner will accept the reduced coverage without reduction of mortgage insurance benefits, if the rates do not exceed the guidelines stated herein. If coverage in any amount is only available at rates in excess of a reasonable rate as defined herein, the mortgagor shall be given the option of purchasing such coverage. If coverage is purchased, the amount of any claim for insurance benefits under this Part shall be reduced by the amount of any recovery of hazard insurance benefits.

21. The first first sentence of § 203.380 is amended to read:

§ 203.380 Certificate of property condition.

The mortgagee shall either certify that as of the date of the filing of deed for record, or assignment of the mortgage to the Commissioner, the property was (a) undamaged by fire, flood, earthquake, or tornado, and (b) as to mortgages insured or for which commitments to insure are issued on or after _____, undamaged, due to failure of the mortgagee to take action as required by § 203.377, or its claim shall be accompanied by a copy of the Commissioner's authorization to convey the property in damaged condition. * * *

22. Section 203.389 is amended by adding a new paragraph (o) at the end thereof as follows:

§ 203.389 Waived title objections.

* * * * *

(o) Federal Tax liens and rights of redemption arising therefrom if the following conditions are observed. If the mortgagee acquires the property by foreclosure the mortgagee shall give notice to the Internal Revenue Service (IRS) of the foreclosure action. The Commissioner will not object to an outstanding right of redemption in IRS if (1) the Federal tax lien was perfected subsequent to the date of the mortgage lien, and (2) the mortgagee has bid an amount sufficient to make the mortgagee whole if the property is in fact redeemed by the IRS.

23. Section 203.402 is amended by adding sentences at the end of paragraphs (f) and (g) to read as follows:

§ 203.402 Items included in payment—conveyed properties.

* * * * *

(f) * * * Reasonable costs incurred in evicting occupants and the removing of personal property from acquired properties are considered to be foreclosure costs. Costs of acquiring the property otherwise than by foreclosure may include not to exceed $200 paid to the mortgagors as consideration for their execution of a deed in lieu of foreclosure.

(g) * * * Reasonable costs for performing the inspections required by § 203.377 are considered to be costs of protecting, operating or preserving the property.

* * * * *

24. Section 203.341 is redesignated as § 203.402a and the first sentence thereof is amended to read:

§ 203.402a Reimbursement for uncollected interest.

The mortgagee shall be entitled to receive an allowance in the insurance settlement for unpaid mortgage interest, if the mortgagor fails to meet the requirements of a forbearance agreement entered into pursuant to § 203.614 and such failure continues for a period of 60 days. * * *

25. Subpart C is added to Part 203 to read as follows:

Subpart C—Servicing Responsibilities

GENERAL REQUIREMENTS

AUTHORITY: Sections 203, 211 of the National Housing Act, as amended, 12 U.S.C. 1709, 1715b; Section 7(d) of the Department of HUD ACT, (42 U.S.C. 3535(d)).

Subpart C—Servicing Responsibilities

GENERAL REQUIREMENTS

§ 203.500 Mortgage servicing generally.

(a) This Subpart identifies servicing practices which the Secretary considers acceptable mortgage servicing practices of prudent lending institutions. Failure to comply with the provisions of this Subpart or instructions of the Secretary issued pursuant to this Subpart shall not be a basis for defense to foreclosure or ground for denial of the payment of insurance benefits but may be cause for withdrawal of a mortgagee's approval.

(b) All approved mortgagees are required to service insured loans in accordance with acceptable mortgage servicing practices of prudent lending institutions and in accordance with this Part.

(c) Mortgagees shall provide competent and aggressive servicing to reduce the number of defaults and required foreclosures.

(d) Mortgagees shall develop effective means of educating borrowers, including through face-to-face discussions, as early as the initial closing.

(e) Mortgagees shall develop and utilize effective controls to assure compliance with the fiscal requirements of the Secretary for the payment of fees and premiums, reporting sales of mortgages and transfers of servicing, reporting

mortgage terminations and filing claims for insurance benefits.

§ 203.502 Responsibility for servicing.

(a) A mortgagee may utilize any individual or firm to service its Secretary-insured mortgage loans. However, the servicer employed must fully discharge the servicing responsibilities of the mortgagee as outlined in this Part. The Mortgagee shall remain fully responsible to the Secretary for proper servicing and the actions of its servicer shall be considered to be the actions of the mortgagee. If the servicer is an approved mortgagee, it shall also be fully responsible to the Secretary for its acts as a servicers as though it were the mortgagee, except to the extent that it acts in accordance with specific written instructions from the mortgagee.

(b) Whenever servicing of any mortgage is transferred from one mortgagee or servicer to another, or the mortgage is assigned to another, the mortgagee effecting the transfer or assignment shall notify or arrange to notify the mortgagor in advance of the transfer. The notification shall provide the mortgagor with the name, address and telephone number of the new servicer or mortgagee and include any special instructions for the handling of payments during the conversion period. Notification pursuant to this Paragraph must be mailed to reach the mortgagor no later than ten days prior to the due date of the first payment due the new servicer or mortgagee. The mortgagee effecting the transfer or assignment shall also notify the Secretary within thirty days thereof on a form approved by the Secretary.

§ 203.506 Assumption with or without release of mortgagor.

The mortgagee may effect the release of a mortgagor while retaining the benefits of insurance under this Part if it obtains the Secretary's approval of the substitute mortgagor (assumptor). If the mortgagee wishes to have further notices of annual mortgage insurance premiums reflect the name of the substitute mortgagor (assumptor), whether or not there is a release of the prior mortgagor, the mortgagee shall give notice to the Secretary on a form approved by the Secretary within thirty days of the record change.

§ 203.508 Providing information.

(a) Mortgagees shall provide loan information to mortgagors on request and arrange for individual loan consultation. The mortgagee must establish written procedures and controls to assure prompt responses to inquiries. One or more of the following means of making information readily available to mortgagors is required:

(1) An office staffed with competent personnel located in the area of the property, capable of providing timely responses to requests for information. Complete records need not be maintained in such an office if the staff is able to secure needed information and pass it on to the mortgagor.

(2) Toll-free telephone service, including WATS service, or acceptance of collect telephone calls from mortgagors, at an office capable of providing needed information.

All mortgagors must be informed of the system available for obtaining answers to loan inquiries, the office from which needed information may be obtained and reminded of the system at least annually. The mortgagee need not accept collect telephone calls from a mortgagor other than at the office designated to serve the mortgagor nor from points more distant than the security property.

(b) Mortgagees shall furnish an adequate statement of the interest paid and taxes disbursed from the escrow account on a timely basis each year to aid the mortgagor in filing income tax returns. At the mortgagor's request, the mortgagee shall furnish a statement of the escrow account sufficient to enable the mortgagor to reconcile the account.

(c) Mortgagees must respond to HUD requests for information concerning individual accounts on request.

§ 203.510 Care of properties.

Failure of the mortgagee to inspect, protect and preserve a vacated or abandoned security property on which the loan is in default (§ 203.377) shall be considered as one of the bases for withdrawal of mortgagee approval pursuant to § 203.7 regardless of the date upon which the loan for such property was insured by the Secretary.

PAYMENTS, CHARGES AND ACCOUNTS

§ 203.550 Escrow accounts.

(a) Mortgagees shall establish escrow accounts to assure timely payments in accordance with § 203.24. If the lender is a non-supervised mortgagee, escrow funds shall be deposited in a special account or accounts in a bank whose deposits are insured by the FDIC or in a savings and loan association whose deposits are insured by the FSLIC. As a part of the loan closing the mortgagee shall establish an adequate accrual amount for each escrow item which will be payable from the escrow fund.

(b) An escrow fund shall be used only for the payment of the expenses for which the fund was established and no other. It is the mortgagee's responsibility to make escrow disbursements as bills become payable. Mortgagees must establish controls to insure that bills are received on a timely basis. Penalties for late payments for items payable from the escrow account must not be charged to the mortgagor unless it can be shown that the penalty was the direct result of the mortgagor's error or omission. Early payment of bills to take advantage of discounts should be made whenever it is to the mortgagor's benefit, if escrow funds are available.

(c) Not later than the end of the second loan year the mortgagee shall establish a system for the periodic analysis of the escrow account which analysis shall be accomplished at least once a year thereafter. The monthly escrow payment shall be adjusted, after analysis, to provide a sufficient accumulation of escrow funds to make anticipated disbursements during the ensuing year. The mortgagor shall be given at least ten days notice of adjustment in monthly payments and an adequate explanation of the reasons for any change.

(d) The mortgagee's estimate of escrow requirements shall be based on the best information available as to probable payments which will be required to be made from the account in the coming year. If actual disbursements during the preceding year are used as the basis, the resulting estimate may deviate from those disbursements by as much as ten percent. The mortgagee may maintain a continuing surplus of up to one-sixth of the current total annual requirement, but larger amounts shall not be held by the mortgagee unless expressly requested by the mortgagor. When the escrow account is analyzed in accordance with paragraph (c) of this section, any surplus or shortage shall be refunded to or collected from the mortgagor as provided for in the security instrument. If a surplus is to be refunded, application of the surplus to delinquent payments shall be considered as a cash refund to the mortgagor.

(e) The mortgagee shall not institute foreclosure when the only default of the noncorporate mortgagor is his present inability to pay a substantial accrual escrow shortage in a lump sum. When the contract of mortgage insurance is terminated voluntarily as, for example, in the case of prepayment in full, sums in the escrow account to pay the mortgage insurance premium shall be retained pending notice from the Secretary. Sums held in escrow for taxes and hazard insurance shall be released immediately.

§ 203.552 Fees and charges after endorsement.

(a) The mortgagee may collect reasonable and customary fees and charges from the mortgagor after insurance endorsement only as follows:

(1) Late charges as set forth in § 203.25;

(2) Charges for processing or reprocessing a check returned as uncollectible; (Where bank policy permits, the mortgagee must process a check a second time before assessing a bad check charge.);

(3) Fees for recording a change of ownership of the mortgaged property;

(4) Fees and charges for arranging a substitution of liability under the mortgage in connection with the sale or transfer of the property;

(5) Charges for processing a request for credit approval of an assumptor or substitute mortgagor;

(6) Charges for substitution of a hazard insurance policy at other than the expiration of term of the existing hazard insurance policy;

(7) Charges for modification of the mortgage involving a recorded agreement for extension of term or reamortization;

(8) Fees and charges for processing partial release of the mortgaged property;

(9) Attorney's fee and expenses actually incurred when a case has been referred for foreclosure in accordance with the provisions of this Part after a firm decision to foreclose and foreclosure is not completed because of a reinstatement of the account; (No attorney's fee may be charged for the services of the mortgagee's or servicer's staff attorney or for the services of a collection attorney.)

(10) The service charge provided for by § 203.23(b) and escrow charges in accordance with § 203.23(a);

(11) A trustee's fee if the security instrument in deed-of-trust states provides for payment of such a fee when the deed of trust is paid in full; and

(12) Such other reasonable and customary charges as may be authorized by the Secretary. (This shall not include (i) charges for servicing activities of the mortgagee or servicer; (ii) fees charged by independent tax servicer organizations which contract to furnish data and information necessary for the payment of property taxes, (iii) "satisfaction," "termination," or "reconveyance" fees when a mortgage is paid in full, or (iv) the fee for recordation of a satisfaction of the mortgage in states where recordation is the responsibility of the mortgagee.)

(b) "Reasonable and customary" fees must be predicated upon the actual cost of the work performed including out-of-pocket expenses. Directors of HUD Area and Insuring Offices are authorized to establish maximum fees and charges which are reasonable and customary in their areas. Except as provided in this Part, no fee or charge shall be based on a percentage of either the face amount of the mortgage or the unpaid principal balance due on the mortgage.

§ 203.554 Enforcement of late charges.

A mortgagee shall not commence foreclosure when the only default on the part of the mortgagor is the failure to pay a late charge or charges (§ 203.25). A late charge attributable to a particular installment payment due under the mortgage shall not be deducted from that installment. However, if the mortgagee thereafter notifies the mortgagor of his obligation to pay a late charge, such a charge may be deducted from any subsequent payment or payments submitted by the mortgagor or on his behalf if this is not inconsistent with the terms of the mortgage. Partial payments shall be treated as provided in § 203.556.

§ 203.556 Return of partial payments.

(a) A partial payment is a payment of any amount less than the full amount due (including late charges authorized to be deducted in accordance with § 203.554) when the payment is tendered. If the mortgagee returns a partial payment before the account is in default (§ 203.330), the payment returned shall be accompanied by a letter of explanation. No payment which becomes a partial payment solely by virtue of the deduction of a late charge or charges therefrom as provided in § 203.554, shall be rejected or returned by the mortgagee. The mortgagee shall not initiate foreclosure action on account of a payment which is rendered a partial payment solely by virtue of the deduction of late charges. Foreclosure is initiated or commenced when the first action required for foreclosure under applicable law is undertaken.

(b) The mortgagee shall accept, identify with the mortgagor's account, and either apply or hold in a trust account for disposition any payment tendered on a mortgage account in default and before foreclosure action is commenced, if the payment aggregates 50 percent or more of the amount due, aside from late charges, unless (1) four or more monthly installments are due and unpaid, (2) there has been a continuing delinquency of any amount which has continued for at least six months since the account first became delinquent, or (3) a mortgagor submits less than the amount agreed to in a repayment plan. The foregoing requirement does not apply if the mortgagee knows that a tenant is paying rentals on the property and such rentals are not being applied to the mortgage payments.

(c) When partial payments accepted by the mortgagee for disposition aggregate a full monthly installment, they shall be applied to the mortgage account thus advancing the date of the oldest unpaid installment, but not the date on which the account first became delinquent.

(d) After foreclosure action has been commenced, the mortgagee is free to return any payment which represents less than the full amount due, including late charges, if the mortgagee has given advance written notice to the mortagor of the full amount due and the mortgagee's intention to return a payment which is less than the full amount due together with any late charges. Such advance notice must be mailed to the mortgagor at least fourteen days before the due date of the latest payment included in the statement of the full amount due. If the mortgagor thereafter continues to tender partial payments which are returned, the mortgagee shall maintain records of the amounts and the dates of both receipt and return of such payments.

§ 203.558 Handling irregular prepayments.

Notwithstanding the terms of the mortgage, the mortgagee may accept a prepayment at any time and in any amount so long as monthly interest on the debt is calculated on the actual unpaid principal balance of the loan as of the first date of the month. If a mortgagee will not accept a prepayment until the first day of the month following expiration of the thirty-day notice period (§ 203.22), unless interest is paid to that date, the mortgagee's response to the mortgagor's inquiry, request for pay-off figures, or tender must clearly advise the mortgagor of this fact. If the mortgagor's notice of intention to prepay or prepayment is required to be delivered on a nonworking day, the notice or prepayment shall be timely if delivered on the next working day.

MORTGAGEE ACTION AND FORBEARANCE

§ 203.600 Mortgage collection action.

Mortgagees shall take prompt action to collect amounts due from mortgagors to minimize the number of accounts in a delinquent or default status. Collection techniques must be adapted to individual differences in mortgagors and take account of the circumstances peculiar to each mortgagor.

§ 203.602 Delinquency notice to mortgagor.

The mortgagee shall give notice to each delinquent mortgagor on a form approved by the Secretary no later than the end of the second month of any delinquency in payments under the mortgage. If an account is reinstated and again becomes delinquent, the delinquency notice shall be sent to the mortgagor again, except that the mortgagee is not required to send a second delinquency notice to the same mortgagor more often than once each six months. The mortgagee may issue additional or more frequent notices of delinquency at its option.

§ 203.604 Contact with the mortgagor.

(a) The mortgagee shall be able to contact the mortgagor in the event of default. Contact with the mortgagor must be attempted as early as possible when there is a delinquency.

(b) The mortgagee must have a face-to-face interview with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid after application of any partial payments which have been accepted but not applied to the mortgage account. If default occurs in a repayment plan arranged other than during a personal interview, the mortgagee must have a face-to-face meeting with the mortgagor, or make a reasonable attempt to arrange such a meeting, within thirty days after such default and at least thirty days before foreclosure is commenced.

(c) A face-to-face meeting is not required if (1) the mortgagor does not reside within 200 miles of the mortgagee, its servicer, or a branch office of either, (2) the mortgagor has clearly indicated he will not cooperate in the interview, (3) a repayment plan consistent with the mortgagor's circumstances is entered into with the mortgagor to bring the mortgagor's account current thus making a meeting unnecessary, and payments thereunder are current, or (4) a reasonable effort to arrange a meeting is unsuccessful.

(d) A reasonable effort to arrange a face-to-face meeting with the mortgagor shall consist at a minimum of one letter sent to the mortgagor certified by the Postal Service as having been dispatched. Such a reasonable effort to arrange a face-to-face meeting shall also include at least one trip to see the mortgagor at

the mortgaged property or at the mortgagor's other place of residence, unless the mortgagor's residence is more than 200 miles from the mortgagee, its servicer, or a branch office of either.

§ 203.606 Pre-foreclosure review.

Foreclosure of a mortgage shall only be undertaken after the mortgagee or servicer has assured itself that the case has been handled in accordance with the servicing requirements outlined in Subpart C. The mortgagee shall not commence foreclosure unless at least three full monthly installments due on the mortgage are unpaid after application of any partial payments which may have been accepted but not yet applied to the mortgage account. No delay in the commencement of foreclosure is required if the mortgagee ascertains that the mortgaged property has been abandoned or the mortgagor has clearly stated that he has no intention of honoring his mortgage obligation.

§ 203.608 Reinstatement.

The mortgagee shall permit reinstatement of a mortgage, even after the institution of foreclosure proceedings, if the mortgagor tenders in a lump sum all amounts required to bring the account current, including foreclosure costs and reasonable attorney's fees properly associated with the foreclosure action, unless the mortgagee has accepted reinstatement after the institution of foreclosure proceedings within two years immediately preceding the commencement of the current foreclosure action. If the mortgage account is reinstated as provided in the preceding sentence, or notwithstanding the institution of foreclosure proceedings within two years immediately preceding the commencement of the current foreclosure action, the mortgage insurance shall continue as if a default had not occurred.

§ 203.610 Relief for mortgagor in military service.

(a) If the mortgagor is a person in the military service, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. App. 501–590), the mortgagee may, by written agreement with the mortgagor, postpone for the period of the mortgagor's military service and for three months thereafter any part of the monthly payments which represents amortization of the principal indebtedness. The agreement shall contain a provision for the resumption of monthly payments thereafter in amounts which will completely amortize the mortgage indebtedness within its original maturity. The agreement shall in no way affect the amount of the annual mortgage insurance premium which shall continue to be calculated in accordance with the original amortization provisions of the mortgage.

(b) If at any time during default the mortgagor is a "person in military service" as such term is defined in the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501–590), the period during which he is in such service may be excluded in computing the one-year period within which the mortgagee shall commence foreclosure or acquire the property by other means as provided in § 203.355 of Subpart B.

§ 203.612 Forbearance by the mortgagee.

(a) The mortgagee shall not initiate foreclosure until the relief measures outlined in this Part have all been considered and the mortgagee has determined that none of these measures is likely to make it possible for the mortgagor to avoid foreclosure of the security property.

(b) No delay in the foreclosure or acquisition of the security property is required if the property has been abandoned or if the mortgagor states that he has no intention of honoring his mortgage obligation.

§ 203.614 Conditions of special forbearance.

(a) The Secretary may approve special forbearance relief by the mortgagee with respect to any loan insured under this Part if the Secretary finds that default was due to circumstances beyond the mortgagor's control. Approval is conditioned on the execution by the mortgagor and mortgagee of a special forbearance agreement providing for:

(1) The reduction, or suspension of regular mortgage payments for a specified forbearance period;

(2) The resumption of regular mortgage payments after the expiration of the forbearance period; and

(3) The payment of the total unpaid amount accruing prior to and during the forbearance period on or before the maturity date of the mortgage or on or before a date subsequent to the maturity date which is approved by the Secretary.

(b) The mortgagee may grant special forbearance relief without the approval of the Secretary subject to the following conditions:

(1) The mortgagor shall establish to the satisfaction of the mortgagee, whose finding shall be conclusive, that:

(i) The mortgagor does not own other property subject to a mortgage insured by the Secretary; and

(ii) The default was caused by circumstances beyond the control of the mortgagor.

(2) The written forbearance agreement shall:

(i) Be limited to a period of 18 months;

(ii) Provide for the resumption of regular mortgage payments after the expiration of the forbearance period; and

(iii) Provide for repayment of the total unpaid amount accruing prior to and during the forbearance period on or before a date extending beyond the original maturity for a period no greater than the period of forbearance.

§ 203.616 Recasting of mortgage.

(a) In addition to the special forbearance relief afforded in § 203.614, if the Secretary makes the finding required in paragraph (a) of that section, the Secretary may approve a modification of the terms of the mortgage for the purpose of changing the amortization provisions by recasting the total unpaid amount due over the remaining term of the mortgage or over such longer period of time as the Secretary may approve. The modification agreement may be effective when executed or upon the termination of a forbearance period.

(b) The Secretary's approval for a recasting of a mortgage for the purpose of changing the amortization provisions shall not be required where the mortgagee make the findings prescribed in § 203.614(b)(1). In such instances, the recasting shall be limited to the remaining term of the mortgage or a term extending not more than 10 years beyond the original maturity date. The Secretary shall be given notice of such modification within 30 days of the execution of the modification agreement.

(c) When a mortgage is modified, the principal amount of the mortgage, as modified:

(1) Shall not include any amounts assessed against the mortgagor as a late charge; and

(2) Shall be considered to be the "original principal of the mortgage" as that term is used in § 203.401.

ASSIGNMENT TO HUD FOR FORBEARANCE

§ 203.650 Assignment to HUD for forbearance—generally.

The Secretary will accept assignments of mortgages insured under this Part which are in default in order to avoid foreclosure when the conditions set forth in §§ 203.650 through 203.662 are met.

§ 203.652 Mortgages ineligible for assignment.

In any case in which the mortgagor has voluntarily abandoned the mortgaged property, or states that he has no intention of honoring his mortgage obligation, the mortgage shall be ineligible for assignment under §§ 203.650 through 203.662 and the mortgagee may proceed with foreclosure.

§ 203.654 Mortgages eligible for assignment to HUD.

The mortgagee shall request that the Secretary accept assignment of a mortgage not otherwise ineligible for assignment pursuant to § 203.652 and the Secretary will accept such assignment, if the following criteria are fully met:

(a) The mortgagee must have informed the mortgagor that it intends to foreclose the mortgage;

(b) At least three monthly installments on the mortgage must be due and unpaid;

(c) The property must be the mortgagor's principal place of residence and mortgagor must not own other property subject to a mortgage insured or held by the Secretary, unless this latter criterion is waived by the Secretary.

(d) The mortgagor's default must have been caused by circumstances or a set of circumstances beyond the mortgagor's control and which temporarily

renders the mortgagor and his family unable to cure the delinquency within a reasonable time or make full mortgage payments; and

(e) There must be a reasonable prospect that the mortgagor will be able to resume full mortgage payments after a temporary period of reduced or suspended payments not exceeding 36 months, and will be able to pay the mortgage in full by its maturity date, extended, if necessary, by up to ten years if on the date of assignment ten or more years have elapsed since the due date of the first payment under the mortgage.

§ 203.656 Notice to mortgagor.

A mortgagee shall notify the mortgagor when (a) it is considering whether or not to ask that the Secretary accept an assignment of the mortgage pursuant to §§ 203.650 through 203.662, (b) it asks that the Secretary accept such an assignment, and (c) it has decided not to ask that the Secretary accept an assignment. Notice shall be given on forms approved by the Secretary or by notices consistent with such forms.

§ 203.658 Mortgagor's request that HUD accept assignment.

If the mortgagee determines that it will not ask the Secretary to accept an assignment of the mortgage pursuant to §§ 203.650 through 203.662, the mortgagor may apply directly to the Secretary requesting that the Secretary accept such an assignment. The mortgagor's request must be received by the Secretary within fifteen calendar days of the date of the mortgagee's notice to the mortgagor that he may ask the Secretary directly to accept assignment of the mortgage. If the mortgagor's last day for contacting the Secretary falls on a Saturday, Sunday or legal holiday he may make that contact on the next following regular work day.

§ 203.660 Mortgagor's conference with HUD.

(a) The mortgagor seeking the assignment of his mortgage to the Secretary pursuant to §§ 203.650 through 203.662 should be entitled to a conference with a representative of the Secretary before the mortgage is foreclosed unless (1) the mortgage is ineligible for assignment pursuant to § 203.652, (2) the Secretary agrees to accept assignment without such a conference, or (3) the mortgagor responds to a notice of preliminary negative decision of the Secretary by indicating that he prefers to present his arguments by telephone or in writing.

(b) When the mortgagor eligible for a conference under paragraph (a) of this section indicates his desire for a conference prior to foreclosure to discuss the assignment of his mortgage to the Secretary, the Secretaary will schedule such a conference at an early date at the Area or Insuring Office, if within 200 miles of the mortgagor's residence, or, if he resides more than 200 miles from the Office, the conference will be held at a mutually convenient site.

(c) The mortgagor shall be entitled to examine the material on which the Secretary's preliminary negative decision is based.

(d) The mortgagor(s) may be present for the hearing and may be represented by one attorney or other representative. The Secretary's representative conducting the conference may prohibit the presentation of cumulative, repetitious or immaterial arguments or materials. When the Secretary's representative conducting the conference announces willingness to accept an assignment, the conference may be terminated immediately without the presentation of further arguments or evidence. The conference shall be informal and shall not be subject to rules of evidence or procedure except as herein provided.

(e) The mortgagor shall be advised by telephone or letter of the Secretary's determination to accept assignment of his mortgage. If it is determined that an assignment will not be accepted, the mortgagor shall be notified in writing of the Secretary's decision with a statement of (1) the Secretary's findings as to the mortgagor's default, financial status and situation, and (2) the criteria required for assignment as set forth in § 203.654 which were not met by the mortgagor. Field Office Directors shall act for the Secretary in all matters relating to such assignment determinations. The decision of a Field Office Director shall be final and not subject to further administrative review on the petition of the mortgagor.

§ 203.662 Cooperation of mortgagees in assignment program.

(a) Mortgagees shall cooperate in the implementation of the assignment program outlined in §§ 203.650 through 203.662 by reviewing each case in which it is decided to foreclose to determine whether or not the mortgage involved is eligible for assignment to the Secretary and requesting that the Secretary accept assignments of eligible mortgages when the criteria outlined in § 203.654 are met.

(b) No sooner than five days after the date when three full monthly installments are due and unpaid under a mortgage, but in any event prior to the commencement of foreclosure or the acquisition of the mortgage property, the mortgagee shall obtain data from the mortgagor, on a form approved by the Secretary or the substance of the information contained on such a form, relevant to the determination of whether the Secretary should be asked to accept an assignment.

(c) When the mortgagee determines that it will not ask the Secretary to accept an assignment of a mortgage, it shall notify the mortgagor on a form approved by the Secretary, or in substance as provided in such a form, which communication shall advise the mortgagor of the criteria set forth in § 203.654 which were not met in his case. The mortgagee shall also advise the mortgagor that he may petition the Secretary to accept an assignment of the mortgage, if such an application is filed within fifteen days of the mortgagee's communication as more fully set forth in § 203.660.

(d) The mortgagee shall cooperate by delaying foreclosure action on the Secretary's request until the Secretary's consideration of whether to accept an assignment is complete, if the mortgagor files a timely request pursuant to paragraph (c) of this section, and shall promptly provide the Secretary with information from its file which will enable the Secretary to reach a determination with respect to accepting an assignment of the mortgage.

(d) If the Secretary elects to accept an assignment of a mortgage pursuant to §§ 203.650 through 203.662, the mortgagee shall terminate any foreclosure action that may have been initiated and assign the mortgage to the Secretary.

Issued at Washington, D.C., August 23, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing,
Federal Housing Commissioner.

[FR Doc.76-25350 Filed 8-27-76;8:45 am]

federal register

MONDAY, AUGUST 30, 1976

PART V:

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I report revisions to two deferrals previously transmitted.

Both of the revised reports reflect routine increases to the amounts deferred. The Federal Aviation Administration's Facilities and equipment deferral has been increased by $193.8 million, and a deferral for the State and local government fiscal assistance trust fund in the Department of the Treasury has been increased by $1.4 million.

The details of each revised deferral are contained in the attached reports.

Gerald R. Ford

THE WHITE HOUSE, *August 24, 1976.*

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Transportation:	
	Federal Aviation Administration	
D76-23B	Facilities and equipment (Airport and airway trust fund).....	276,101
	Treasury:	
	Office of the Secretary	
D76-24A	State and local government fiscal assistance trust fund.....	82,407
	Total.....	358,508

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1976 AND THE TRANSITION QUARTER
(amounts in thousands of dollars)

	Rescissions	Deferrals
Nineteenth special message:		
New items.....	---	---
Changes to amounts previously submitted.....	---	195,168
Effect of the nineteenth special message.....	---	195,168
Previous special messages.....	3,455,314	8,140,128
Adjustments to eliminate double counting.....	---	-242,023
Total amount proposed in special messages.....	3,455,314 (in 49 rescission proposals)	8,093,273 (in 117 deferrals)

NOTE: All amounts listed represent budget authority except for $114,828,220 consisting of two general revenue sharing deferrals (of outlays only). Supplementary reports for these deferrals (D76-25F and D76-67A) are included in the seventeenth special message.

D76-23B

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D76-23A transmitted to the Congress on July 6, 1976, and printed as House Document 94-548 and Senate Document 94-232.

The amount deferred for the Federal Aviation Administration's Facilities and equipment program has been increased by $193,761,000 to a new total of $276,101,000. This amount reflects a net increase resulting from: (1) budgetary resources available in the transition quarter that are higher than previously estimated (in part the result of the enactment of the Airport and Airways Development Act Amendments of 1976), and (2) an increased amount made available for obligation in the quarter.

Deferral No: D76-23B

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. _____) $ -0-
Bureau: Federal Aviation Administration	Other budgetary resources 578,777,754*
Appropriation title & symbol * Facilities and Equipment (Airport and Airway Trust Fund) 69X8107 694/68107 695/78107 696/88107	Total budgetary resources (76&TQ) 578,777,754* 1/
	Amount to be deferred: Part of Transition Quarter $ _____ Entire Transition Quarter 276,101,000*
OMB identification code: 21-20-8107-0-7-405	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other _____
Type of account or fund:* [ ] Annual [X] Multiple-year 694/68107 Sept. 30, 1976; 695/78107 Sept. 30, 1977; 696/88107 Sept. 30, 1978 (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

*Justification

Funds from this account are used to procure specific Congressionally approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en-route airway control system, and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1976 and prior years. None of the deferred funds lapse in the transition quarter. The estimated total cost for each project is traditionally included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

*1/ Of this amount, the budgetary resources available in the transition quarter equal $418,101,000. These resources include $416,101,000 in estimated unobligated balances and $2,000,000 in anticipated reimbursements.

* Revised from previous report.

D76-23B

2

Estimated Effects

This deferral action is consistent with normal operations for this program. The amount deferred could not be economically used if made available in the transition quarter because of the planned multi-year procurement, construction and installation cycle.

* Outlay Effect (estimated in millions of dollars)

Comparison with President's 1977 Budget:	
1. Budget outlay estimate for TQ	51.3
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for TQ:	
3. Without deferral	70.0
4. With deferral	70.0
Current outlay savings (line 3 - line 4)	-0-
Outlay savings for 1977	-0-
Outlay savings for 1978	-0-

* Revised from previous report.

D76-24B

Supplementary Report
Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D76-24A transmitted to the Congress on July 6, 1976, and printed as House Document No 94-548 and Senate Document No. 94-232.

This report for the State and local government fiscal assistance trust fund in the Office of the Secretary of the Treasury increases the amount deferred by $1,407,250. This is the result of a higher actual unobligated balance brought forward into the transition quarter than had been previously estimated.

Deferral No: D76-24B

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 95-512): $8,018,475,000
Bureau: Office of the Secretary	Other budgetary resources: 93,156,016
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111	1/ Total budgetary resources (for 1976 and the TQ): $8,111,631,016
	Amount to be deferred: Part of ~~XXXX~~ TQ: 2/
	Entire ~~XXX~~ TQ: 82,407,250 *
OMB identification code: 15-70-8111-0-7-851	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☒ Multiple-year Appropriation 12/31/76 (expiration date)	☐ Contract authority
☒ No-year fund	☐ Other

Justification

The Secretary of the Treasury must hold a portion of this account in reserve to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,000 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975.

This cumulative unobligated reserve, totaling $82.4 million* is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The unobligated amount retained in the Trust Fund will be reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution.

1/ * Of this amount, the budgetary resources available on July 1, 1976, equaled $1,744,695,000 These resources include $1,662,287,750 in new budget authority and $82,407,250 in estimated unobligated balances.

2/ While some amount of this reserve may be released before September 30, 1976, as valid claims are approved, there is no sound basis for estimating that amount.

* Revised from previous report.

D76-24B

2

Estimated Effect

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1977 Budget:

1. Budget outlay estimate for the transition quarter	1,626.6
2. Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for the Transition Quarter

3. Without deferral	1,626.6
4. With deferral	1,626.6
5. Current outlay savings (line 3 - line 4)	.0
Outlay savings for 1977	.0
Outlay savings for 1978	.0

[FR Doc.76-25411 Filed 8-26-76;11:03 am]

federal register

MONDAY, AUGUST 30, 1976

PART VI:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Rule Making

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Parts 1911, 1921, 1922, 1923, 1924]

[Docket No. R-76-414]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Rule Making

The Secretary of Housing and Urban Development hereby proposes the amendment of Chapter X of Title 24 of the Code of Federal Regulations to clarify the respective roles of the Administrator of the Federal Insurance Administration and the National Flood Insurers Association (hereafter NFIA) which sells flood insurance policies and adjusts insurance claims. The regulations published for comment would prescribe the forms of Standard Flood Insurance Policy used in the program as part of the FIA regulations, and would clarify the role of the FIA in interpreting the Act and the Standard Flood Insurance Policies. The regulations would also prescribe requirements regarding subcontracting procedures for subcontracts let by the NFIA. The roles of the Administrator of the Federal Insurance Administration (hereafter FIA) and NFIA would be appropriately clarified.

Congress has entrusted the Secretary of Housing and Urban Development (hereafter the Secretary) with very broad power and responsibility "to establish and carry out a national flood insurance program." Section 1304(a), of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4011(a)), hereafter the Act. The Secretary is specifically authorized to provide "for the general terms and conditions of insurability" and "the nature and limits of loss or damage * * * which may be covered by such insurance." Section 1306(a) of the Act (42 U.S.C. 4013). It is the Secretary who establishes premium rates for such insurance. Sections 1307 and 1308 of the Act (42 U.S.C. 4014 and 4015).

The Secretary has broad authority to arrange for the financing and administration of the flood insurance program and the method or methods by which claims for losses may be adjusted and paid for. Sections 1309–1312 of the Act (42 U.S.C. 4016–4019). The Secretary is authorized to prescribe "appropriate requirements for insurance companies and other insurers" when they are permitted to participate in a pool to provide flood insurance coverage. Section 1331 of the Act (42 U.S.C. 4054). The Secretary is authorized to enter into such agreements with the pool as she deems necessary to carry out the purposes of the program. Section 1332(a) of the Act (42 U.S.C. 4052(a)).

The Secretary is authorized to utilize the facilities and services of insurance companies and other insurers, insurance agents, brokers or insurance adjustment organizations "on such terms and conditions as may be agreed upon." Section 1345 of the Act (42 U.S.C. 4081).

The Authority of the Secretary with respect to the National Flood Insurance Program (the Program) provided for by the Act has been delegated to the Administrator of the Federal Insurance Administration (34 F.R. 2680).

When the Program was originally established by Congress in 1968, the participation of communities and property owners was voluntary. In order to assure broader use of the original Program by the public, the promotional efforts of as large a group as possible of participating insurers was sought. The contract negotiated between FIA and NFIA, which is still in effect, was arrived at with a view toward encouraging such participation by insurers. The Flood Disaster Protection Act of 1973 (Public Law 93–234) made the purchase of flood insurance essentially mandatory by requiring that direct and indirect Federal financial assistance or federally related financial assistance, including any secured loan on improved realty from a federally regulated lender, be denied to any person with respect to property located in a flood hazard area of a participating community unless such person purchases insurance under the Program.

Under the existing arrangements between FIA and NFIA, the participating insurers are basically not at risk. The cost of any expense and flood insurance coverage is borne primarily by the insured property owners and the government. In fact, the "promised risk capital," upon the basis of which companies that are members of the NFIA receive a profit, is not paid in by the member insurers and since 1968, when the program began, no participating insurer has expended any of its promised risk capital.

An individual policyholder often may not be able to afford to litigate decisions of NFIA which deny or reduce benefits, particularly when the claims are not large. Also, unlike many other types of insurance which are subject to the jurisdiction of State insurance regulatory authorities, the flood insurance policyholder cannot obtain relief from State insurance regulatory officials since such officials lack authority with respect to this Federal Program.

In light of this background, FIA has an obligation to assure the fair treatment of policyholders. One of the means utilized to provide fair treatment for policyholders has been the exercise by FIA of the Secretary's authority to interpret the scope of coverage of the Standard Flood Insurance Policy. In former years NFIA followed these interpretations of FIA, in such matters as erosion and mudslide claims when disputes arose between insurers and policyholders. Recently, however, NFIA has asserted that it is not subject to FIA interpretations of flood insurance policy coverage. It is appropriate, therefore, to clairfy the respective roles of FIA and NFIA.

The need for the exercise of the FIA role to protect the best interests of the policyholder who has suffered a loss is illustrated by NFIA's refusal to comply with an interpretation that the FIA issued in connection with NFIA's disclaimer of coverage for the insured's expense in removing insured personal property from insured premises in imminent danger from flood. Upon initial consideration of this issue on a specific case, FIA accepted NFIA's opinion that such claims were not covered. However, upon thorough research and analysis, FIA determined that the Standard Flood Insurance Policy does cover such claims. Among other bases for the FIA interpretation in favor of coverage for removal expense under certain conditions, FIA considered the portion of the Standard Flood Insurance Policy which deprives the insured of coverage for flood loss "caused directly or indirectly by neglect of the insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of * * * [flood]." FIA also examined the financial implications and the FIA analysis indicated that coverage of such claims under the interpretation issued would possibly save money by reducing claims for flood loss. NFIA refused to comply with the FIA interpretation and at the time of the flooding in Minot, North Dakota, earlier this year NFIA caused announcements to be made throughout the affected area that removal costs would not be compensated under flood insurance policies, thus discouraging the filing of such claims.

The regulations published for comment would provide for issuance by the Administrator, from time to time, of interpretations of the terms of the Standard Flood Insurance Policy, as referenced at 24 CFR 1911.4(a)(1). When issued, such interpretations are to be published as appendixes to and incorporated by reference as a part of these regulations.

Legal authority for the issuance of such interpretations is implicit in the Administrator's authority to promulgate the policy and implement the Act. Such interpretations will be interpretative rules of general applicability under the terms of the Administrative Procedure Act, 5 U.S.C. 551, et seq (hereinafter referred to as the "APA"). As such, they are subject to the requirement that they be published in the FEDERAL REGISTER. 5 U.S.C. 552. However, they are not subject to the notice or hearing requirements of the APA applicable to rulemaking and need not be published in the FEDERAL REGISTER in advance of their effective date. 5 U.S.C. 553. As interpretations they apply to any Standard Flood Insurance Policy regardless of the date of execution of such policy, and apply to any claim under such a policy regardless of the date on which it arose.

From time to time, the Administrator may decide that there is a need to change the terms of the Standard Flood Insurance Policy. Such changes will be issued by the Administrator pursuant to the rulemaking requirements of the APA, including prior notice and public procedure, publication at least thirty (30) days prior to effective date where prac-

ticable, and prospective operation. 5 U.S.C. 553.

A further major concern relates to NFIA's subcontracting. The second part of the regulations published for comment would require all subcontracts to be in writing and would further require that prior to executing any subcontract involving an amount in excess of $10,000, NFIA must notify the Administrator of its intent to enter into or execute such subcontract and furnish a copy thereof to him together with a statement of the NFIA as to how the subcontractor was selected, the degree of competition entering into the selection, and an analysis as to the reasonability of subcontractor costs or price. The proposed rule would allow expenses incurred by NFIA in violation of the rule's requirements to be reimbursed by the Administrator only upon a determination made by him that the expenses were incurred for good cause shown and that NFIA had no reasonable opportunity to provide the required written documentation in advance.

The regulations would provide that any insurers, insurance agents and brokers, or insurance adjustment organizations servicing the Program may serve the Program only after being awarded the contract for such service under a competitive bidding process.

NFIA has refused to follow competitive bidding practices, notwithstanding the insistence of FIA, thereby lessening competition and possibly increasing the cost to the taxpayer of the Program. It has not made firm written contract arrangements which tie down requirements imposed on subcontractors, nor has it obtained firm contract terms regarding duration and pricing. FIA questions the adequacy of supervision by NFIA of the subcontracts which have been let.

HUD's Office of the Inspector General has found, as to one sizeable subcontract, that the agreement was quite informal; it was open-ended as to time and services; no rates were specified except generally as customary billing rates; and there was no provision for termination for default. The documents did not reserve the right to examine supporting records or billings, and did not specify a completion date.

The regulations published for comment with respect to competitive bid procurement for services are intended to enhance competition and promote fairness in the contracting procedures for procuring the services of insurers. At present sixteen members of the 124 members of NFIA share approximately 70 percent of the profit of NFIA. Of the sixteen, fifteen currently have representatives on NFIA's executive committee. FIA estimates that twelve of these stand to share, as individual servicing companies under subcontract to the NFIA, 80 percent of the servicing revenue which will be earned in the 33 jurisdictions producing the most fees. FIA estimates that five of these twelve can be expected to share 70 percent of the 80 percent servicing fee revenues and almost 30 percent of the profit.

The regulations published for comment are intended to clarify the respective roles of FIA and NFIA and to improve the Program in other respects as indicated above. It is the intention of the Secretary and FIA to negotiate a revised contract to conform with such revised regulations as they are published for effect and include other appropriate provisions in order to insure that the Program is carried out in accord with the intent of Congress.

Interested persons may participate in the instant rule making by submitting written data, views, or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations. Comments received by September 29, 1976 will be considered before final action is taken on the proposal. Copies of all written comments will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. The proposal may be changed in the light of the comments received.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection at the above address.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular A-107 and that these amendments do not have an economic impact. A copy of the Finding of Inapplicability is available for inspection at the above address.

Accordingly, the Secretary of Housing and Urban Development proposes to amend Chapter X of 24 CFR as follows:

PART 1911—INSURANCE COVERAGE AND RATES

1. § 1911.13 is added to Part 1911—Insurance Coverage and Rates to read as follows:

§ 1911.13 Standard Flood Insurance Policy.

(a) Each of the Standard Flood Insurance Policy forms included in Appendix "A" hereto ("General Property" and "Dwelling Building and Contents") and by reference incorporated herein shall, within its appropriate sphere, constitute the Standard Flood Insurance Policy.

(b) Any endorsements appended hereto in the said Appendix A, and by reference incorporated herein, are the amendatory endorsements through which the policy may be amended, and no other endorsements shall amend or modify such policy.

(c) The renewal certificate appended hereto, and by reference incorporated herein, shall be the only renewal certificate for use with the Standard Flood Insurance Policy, and no other renewal certificate form shall be effective. (Appendix "B").

(d) The application and renewal application forms appended hereto and by reference incorporated herein shall be the only application forms used in connection with the Standard Flood Insurance Policy. (See Appendix "C").

(e) The Standard Flood Insurance Policy and required endorsements must be used in the Flood Insurance Program, and no provision of the said documents, shall be altered or waived other than through the issuance of an appropriate amendatory endorsement approved by the Administrator as to form and substance for uniform use and countersigned by NFIA or the authorized servicing company.

(f) No oral binder or contract shall be effective in respect to NFIA or the servicing company. No written binder shall be effective unless issued with express authorization of, and countersigned by, NFIA or the authorized servicing company; the inception date of any new or added coverage or of any increase in the amount of insurance shall be at least 15 calendar days after the date of application, except that the 15-day waiting period shall not apply to renewal policies (except as to additions to coverage) nor during the initial 30 calendar days from the effective date of first availability of flood insurance in any designated community.

2. § 1911.14 is added to read as follows:

§ 1911.14 Standard Flood Insurance Policy Interpretations by the Federal Insurance Administrator.

The Administrator shall from time to time issue interpertative rules regarding the provisions of the Standard Flood Insurance Policy. Such interpretations shall be published in the FEDERAL REGISTER, made a part of Appendix D to these regulations, and incorporated by reference as part of these regulations. These interpretative rules shall be effective with respect to all policies regardless of the date of issuance, and with respect to all affected claims regardless of the date on which they arise. NFIA and other affected parties shall comply with such interpretative rules in the investigation and adjustment of flood insurance claims brought under the National Flood Insurance Program.

PART 1921—SUB-CONTRACTS

3. A new Part 1921—Sub-Contracts is added and a new § 1921.1—Sub-Contracts with the Department's Prime Contractor, the NFIA, is added under that new Part to read as follows:

§ 1921.1 Sub-contracts with the Department's prime contractor, the NFIA.

(a) The NFIA, prior to execution of any sub-contract, agreement or other arrangement, involving, or which may involve, an amount of $10,000.00 or more, shall provide the Administrator with written notification that it proposes to enter into and/or executive such sub-

contract, agreement or other arrangement.

(b) The notification provided for in paragraph (a) of this section shall include a copy of the proposed sub-contract, agreement or other arrangement, a statement by NFIA relative to the scope of work to be performed under the sub-contract, a statement as to how the proposed sub-cotractor was selected, including the degree of competition obtained, and NFIA's analysis of the reasonableness of the sub-contractor's cost or price.

(c) Expenses incurred by NFIA in violation of paragraphs (a) and/or (b) of this section may only be reimbursed to the NFIA by the Administrator upon a determination by the Administrator that such expenses were incurred for good cause shown and without a reasonable opportunity to provide the Administrator with the written documentation, in advance of the proposed sub-contract, required under paragraphs (a) and (b) of this section.

(d) All sub-contracts entered into by NFIA must be in writing.

PART 1922—SECRETARY'S AUTHORITY

4. A new Part 1922—Secretary's Authority is added and a new Section 1922.1—Services by Insurance Industry Under Agreements With Secretary is added under that new Part to read as follows:

§ 1922.1 Services by insurance industry under agreements with Secretary.

(a) The Secretary has established and carries out, as authorized by the Congress, all aspects, including the insurance facets, of the National Flood Insurance Program utilizing, among other things, insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations in accordance with the provisions of the National Flood Insurance Act of 1968 Pub. L. 90–448, (42 U.S.C. 4001–4128) relating to the Administration of the program, including the services to be provided by the insurance industry under the direction and control of the Secretary as to the program, including its insurance elements.

(b) The Secretary, in furtherance of the purposes of paragraph (a) of this section, has entered into an agreement with the NFIA under which the NFIA renders service and assistance to the Department in the marketing and selling of flood insurance policies and the adjustment of claims pursuant to the coverage afforded under the Standard Flood Insurance Policy, as interpreted when appropriate by the Administrator.

(c) National Flood Insurance Program functions and responsibilities not expressly delegated to NFIA by paragraph (b) of this section or expressly set forth in the current Agreement by and between the Department and NFIA, which may be examined at the Office of the Federal Insurance Administrator, Room 5138, Department of Housing and Urban Development, Washington, D.C., are reserved to the Secretary.

PART 1923—ADMINISTRATOR'S AUTHORITY OVER COMPETITIVE BIDDING

5. A new Part 1923—Administrator's Authority Over Competitive Bidding is added and a new § 1923.1—When Agreements for Services by Insurance Industry Are Subject to Competitive Bidding is added to that new Part to read as follows:

§ 1923.1 When agreements for services by insurance industry are subject to competitive bidding.

(a) In administering the flood insurance program, the Administrator is authorized to require that any insurance companies or other insurers, insurance agents and brokers, or insurance adjustment organizations servicing, under formal written contract or otherwise, the National Flood Insurance Program may serve the program only after being awarded the contract for such service under a competitive bidding process.

(b) At the Administrator's option and under such terms and conditions as the Administrator may deem proper, the Administrator is authorized to permit the National Flood Insurers Association to conduct any competitive bidding processes as may be required by the Administrator under paragraph (a) of this section, with the Administrator presiding over all elements of the competitive bidding process, including the preparation of the proposed contractual documents, the final form of which shall be subject to the prior approval of the Administrator; except that should the Administrator deem it necessary or appropriate, he may enter into any such contracts, agreements, or other arrangements, as may have been entered into by the NFIA under paragraph (a) of this section, with the use of competitive bidding processes or without regard to any provision of law requiring competitive bidding.

(c) Any services by the insurance industry which may be utilized pursuant to paragraphs (a) (b) of this section are deemed to be in furtherance of the purposes of the 1968 Act and the Agreement (referenced at § 1922.1(b) hereof) by and between the Department and the NFIA, which association of insurers shall continue to use its best efforts to market flood insurance policies and adjust claims utilizing the services obtained under paragraphs (a) and/or (b) of this section.

PART 1924—SECRETARY'S AUTHORITY OVER CLAIMS

6. A new Part 1924—Secretary's Authority Over Claims is added and a new Section 1924.1—Adjustment and Payment of Claims is added to that new Part to read as follows:

§ 1924.1 Adjustment and payment of claims.

(a) The Secretary, in establishing the general method or methods by which claims for losses may be adjusted and paid for any damage to or loss of property which is covered by flood insurance, may direct the National Flood Insurers Association or any of its sub-contractors to submit, for review and approval or disapproval by the Secretary, complete documentation (the "claim file") with respect to any claim, series or types of claims made by any persons insured by the Standard Flood Insurance Policy;

(b) The Secretary, or her delegate, the Administrator, may, upon a review of a claim file made pursuant to paragraph (a) of this section, order and direct the National Flood Insurers Association or any sub-contractor of the association to pay, or not to pay, for damages claimed by an insured consumer to have been incurred as a result of a flooding event covered, as determined by the Secretary or the Administrator, by the terms and conditions of the Standard Flood Insurance Policy. Disaster Protection Act of 1973 (Pub. L. 93–234), National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), (33 FR 17804), as amended, 42 U.S.C. 4001–4128; and (34 FR 2680).

Issued: August 26, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

STANDARD FLOOD INSURANCE POLICY

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

INSURANCE COMPANIES MEMBERS OF
NATIONAL FLOOD INSURERS ASSOCIATION
NEW YORK, N. Y.

(HEREIN CALLED THE COMPANY)

APPENDIX A (1)

DWELLING BUILDING AND CONTENTS

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANY DOES INSURE the Insured named and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all **DIRECT LOSS BY "FLOOD"** as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 30 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in A-1 above.

PERILS EXCLUDED

This Company shall not be liable for loss:

A. By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; or (3) water, moisture or mudslide damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the Insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment, seepage or backup of water, or hydrostatic pressure) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto;

B. Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (b) by military, naval or air forces, or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;

C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy;

D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood;

E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against;

F. Occasioned directly or indirectly by enforcement of any local or state ordinance or law regulating the construction, repair or demolition of building(s) or structure(s);

G. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy.

PROPERTY COVERED

A. Dwelling: The term "dwelling" shall mean a residential building designed for the occupancy of from 1 to 4 families and occupied principally for dwelling purposes by the number of families stated herein.

When the insurance under this policy covers a dwelling, such insurance shall include additions in contact therewith; also, if the property of the owner of the described dwelling and when not otherwise covered, building equipment, fixtures and outdoor equipment, all pertaining to the service of the described premises and while within an enclosed structure located on the described premises; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such dwelling or appurtenant private structures on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the dwelling covered under this policy, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described dwelling and additions in contact therewith) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described dwelling, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. Contents: When the insurance under this policy covers contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a dwelling—except other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy; belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable, or, at the option of the Insured, belonging to a servant or guest of the Insured; all while within an enclosed structure located on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the contents covered under this policy, not as an additional amount of insurance, as follows:

(a) If not the owner of the described premises, to cover loss to improvement, alterations, and additions to the described dwelling and appurtenant enclosed private structures as described above.

(b) If an individual condominium unit owner of the described premises, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described dwelling and appurtenant enclosed private structures as described above.

NFIA-1 (Ed. 7-74)

ATTACH APPLICATION AND DECLARATIONS FORM HERE

APPENDIX A (1)
DWELLING BUILDING AND CONTENTS

This Company shall not be liable for loss in any one occurrence for more than:

1. $500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac);

2. $500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

C. Debris Removal: This insurance covers expense incurred in the removal of debris of or on the dwelling, appurtenant enclosed private structures or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

PROPERTY NOT COVERED

This policy shall not cover:

A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved surfaces outside the foundation walls of the structure.

D. Animals, birds, fish, aircraft, motor vehicles (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment; or business property.

DEDUCTIBLES

A. With respect to loss to the dwelling, appurtenant enclosed private structures or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the dwelling, whichever is the greater.

B. With respect to loss to contents or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the contents, whichever is the greater.

REPLACEMENT COST PROVISIONS

With respect only to a Single Family Dwelling Structure covered hereunder, the term "actual cash value" shall mean replacement cost, subject to following provisions. Outdoor radio and television antennas and aerials, carpeting, awnings, domestic appliances and outdoor equipment, all whether attached to the building structure or not, are excluded from these provisions.

A. If at the time of loss the whole amount of insurance applicable to said building structure is 80% or more of the full replacement cost of such building structure, or is the maximum amount of insurance available under the National Flood Insurance Program, the coverage of this policy applicable to such building structure is extended to include the full cost of repair or replacement (without deduction for depreciation).

B. If at the time of loss the whole amount of insurance applicable to said building structure is less than 80% of the full replacement cost of such building structure and less than the maximum amount of insurance available under the National Flood Insurance Program, this Company's liability for loss under this policy shall not exceed the larger of the following amounts:

1. the actual cash value of that part of the building structure damaged or destroyed; or

2. (a) that proportion of the full cost of repair or replacement without deduction for depreciation of that part of the building structure damaged or destroyed, which the whole amount of insurance applicable to said building structure bears to 80% of the full replacement cost of such building structure; or

   (b) the maximum amount of insurance available under the National Flood Insurance Program,

   whichever is larger.

C. This Company's liability for loss under this policy shall not exceed the smallest of the following amounts:

1. the limit of liability of this policy applicable to the damaged or destroyed building structure;

2. the replacement cost of the building structure of any part thereof identical with such building structure on the same premises and intended for the same occupancy and use; or

3. the amount actually and necessarily expended in repairing or replacing said building structure or any part thereof intended for the same occupancy and use.

D. When the full cost of repair or replacement is more than $1,000 or more than 5% of the whole amount of insurance applicable to said building structure, this Company shall not be liable for any loss under paragraph A or subparagraph 2 of paragraph B of these provisions unless and until actual repair or replacement is completed.

E. In determining if the whole amount of insurance applicable to said building structure is 80% or more of the full replacement cost of such building structure, the cost of excavations, underground flues and pipes, underground wiring and drains, and brick, stone and concrete foundations, piers and other supports which are below the under surface of the lowest basement floor, or where there is no basement, which are below the surface of the ground inside the foundation walls, shall be disregarded.

F. The Named Insured may elect to disregard this condition in making claim hereunder, but such election shall not prejudice the Named Insured's right to make further claim within 180 days after loss for any additional liability brought about by these provisions.

GENERAL CONDITIONS AND PROVISIONS

A. Pair and Set Clause—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. Concealment, Fraud—This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.

C. Other Insurance—This Company shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by this Company upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under the said Act with respect to such property.

D. Added and Waiver Provisions—The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

E. Cancellation of Policy or Reduction in Amount of Insurance—This policy may be cancelled at any time at the request of the Insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case this Company shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by this Company for non-payment of the premium by giving to the Insured a 20-days' written notice of cancellation.

F. Conditions Suspending or Restricting Insurance—Unless otherwise provided in writing added hereto, this Company shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the Insured), when such act or neglect is not within the control of the Insured.

G. Alterations and Repairs—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the Insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the Insured shall protect the property from further damage.

APPENDIX A (1) DWELLING BUILDING AND CONTENTS

H. Property of Others—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the Insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to this Company. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

I. Liberalization Clause—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the Insured hereunder as though such endorsement or substitution of form had been made.

J. Statutory Provisions—Any terms of this policy which are in conflict with the statutes of the State wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

K. Loss Clause—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

L. Mortgage Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy.)—

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

If this policy is cancelled by this Company, it shall continue in force for the benefit only of the mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

M. Mortgagee Obligations—If the Insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

N. Requirements In Case of Loss—The Insured shall give written notice, as soon as practicable, to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by this Company, the Insured shall render to this Company a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of this Company, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

O. Appraisal—In case the Insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the Insured or this Company, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

P. Company's Options—It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

Q. Abandonment—There shall be no abandonment to this Company of any property.

R. When Loss Payable—The amount of loss for which this Company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the Insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

S. Action Against the Company—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Company may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

T. Subrogation—In the event of any payment under this policy, this Company shall be subrogated to all of the Insured's right of recovery therefor against any party, and this Company may require from the Insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of this Company.

W. H. Williams

Attorney-in-Fact for the Insurance Companies
Members of National Flood Insurers Association

SPECIAL PROVISIONS

A. A list of all Insurance Companies members of the National Flood Insurers Association is on file in the office of the State Insurance Department of the State where the property covered is located and a copy may be obtained upon request from the office of the National Flood Insurers Association, 160 Water Street, New York, N. Y. 10038.

B. All notices or other communications required by this policy to be given to the Company shall be given to the Servicing Company designated on the Application and Declarations Form attached to this policy, and such notice shall be considered to constitute notice to the Company.

STANDARD FLOOD INSURANCE POLICY

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

INSURANCE COMPANIES MEMBERS OF NATIONAL FLOOD INSURERS ASSOCIATION

NEW YORK, N. Y.

(HEREIN CALLED THE COMPANY)

APPENDIX A (2)

GENERAL PROPERTY

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANY DOES INSURE the Insured named and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all **DIRECT LOSS BY "FLOOD"** as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 30 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in A-1 above.

PERILS EXCLUDED

This Company shall not be liable for loss:

A. By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; or (3) water, moisture or mudslide damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the Insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment, seepage or backup of water, or hydrostatic pressure) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto;

B. Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (b) by military, naval or air forces, or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;

C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy;

D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood;

E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against;

F. Occasioned directly or indirectly by enforcement of any local or state ordinance or law regulating the construction, repair or demolition of building(s) or structure(s);

G. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy.

PROPERTY COVERED

A. Building: When the insurance under this policy covers a building, such insurance shall include additions and extensions attached thereto; permanent fixtures, machinery and equipment forming a part of and pertaining to the service of the building; personal property of the insured as landlord used for the maintenance or service of the building including fire extinguishing apparatus, floor coverings, refrigerating and ventilating equipment, all while within the described building; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such building or appurtenant private structures on the described premises.

When the insurance under this policy covers a building used for residential purposes, the insured may apply up to 10% of the amount of insurance, applicable to such building, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described building and additions and extensions attached thereto) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described building, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. Contents: When the insurance under this policy covers contents, coverage shall be for either household contents or other than household contents, but not for both.

1. When the insurance under this policy covers other than household contents, such insurance shall cover merchandise and stock, materials and stock supplies of every description; furniture, fixtures, machinery and equipment of every description all owned by the insured; improvements and betterments (as hereinafter defined) to the building if the insured is not the owner of the building and when not otherwise covered; all while within the described enclosed building.
2. When the insurance under this policy covers household contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a residence—except animals, birds, fish, business property, other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy; belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable, or, at the option of the Insured, belonging to a servant or guest of the Insured; all while within the described building.

   The Insured, if not the owner of the described building, may apply up to 10% of the amount of insurance applicable to the household contents covered under this item, not as an additional amount of insurance, to cover loss to improvements and betterments (as hereinafter defined) to the described building.

   The Insured, if an individual condominum unit owner in the described building, may apply up to 10% of the amount of insurance on contents covered under this policy, not as an additional amount of insurance, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described building.

NFIA-8 (Ed. 7-74)

ATTACH APPLICATION AND DECLARATIONS FORM HERE

APPENDIX A (2)
GENERAL PROPERTY

This Company shall not be liable for loss in any one occurrence for more than:

(a) $500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac);

(b) $500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

3. When the insurance under this policy covers improvements and betterments, such insurance shall cover the Insured's used interest in improvements and betterments to the described building.

(a) The term "improvements and betterments" wherever used in this policy is defined as fixtures, alterations, installations, or additions comprising a part of the described building and made, or acquired, at the expense of the Insured exclusive of rent paid by the Insured, but which are not legally subject to removal by the Insured.

(b) The word "lease" wherever used in this policy shall mean the lease or rental agreement, whether written or oral, in effect as of the time of loss.

(c) In the event improvements and betterments are damaged or destroyed during the term of this policy by the peril insured against, the liability of this Company shall be determined as follows:

(1) If repaired or replaced at the expense of the Insured within a reasonable time after such loss, the actual cash value of the damaged or destroyed improvements and betterments.

(2) If not repaired or replaced within a reasonable time after such loss, that proportion of the original cost at time of installation of the damaged or destroyed improvements and betterments which the unexpired term of the lease at the time of loss bears to the period(s) from the date(s) such improvements and betterments were made to the expiration date of the lease.

(3) If repaired or replaced at the expense of others for the use of the Insured, there shall be no liability hereunder.

C. Debris Removal: This insurance covers expense incurred in the removal of debris of or on the building or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

PROPERTY NOT COVERED

This policy shall not cover:

A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved surfaces outside the foundation walls of the structure.

D. Automobiles; any self-propelled vehicles or machines, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the Insured; watercraft or aircraft.

E. Contents specifically covered by other insurance except for the excess of value of such property above the amount of such insurance.

DEDUCTIBLES

A. With respect to loss to the building or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the building, whichever is the greater.

B. With respect to loss to contents or debris removal covered hereunder, this Company shall be liable for only the amount of loss in any one occurrence which is in excess of (a) $200. or (b) 2% of the amount of loss to the contents, whichever is the greater.

GENERAL CONDITIONS AND PROVISIONS

A. Pair and Set Clause—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. Concealment, Fraud—This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.

C. Other Insurance—This Company shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by this Company upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under the said Act with respect to such property.

D. Added and Waiver Provisions—The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

E. Cancellation of Policy or Reduction in Amount of Insurance—This policy may be cancelled at any time at the request of the Insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case this Company shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by this Company for non-payment of the premium by giving to the Insured a 20-days' written notice of cancellation.

F. Conditions Suspending or Restricting Insurance—Unless otherwise provided in writing added hereto, this Company shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the Insured), when such act or neglect is not within the control of the Insured.

G. Alterations and Repairs—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the Insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the Insured shall protect the property from further damage.

H. Property of Others—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the Insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to this Company. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

I. Liberalization Clause—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the Insured hereunder as though such endorsement or substitution of form had been made.

J. Statutory Provisions—Any terms of this policy which are in conflict with the statutes of the State wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

K. Loss Clause—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

APPENDIX A (2) GENERAL PROPERTY

L. Mortgage Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy.)—

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

If this policy is cancelled by this Company, it shall continue in force for the benefit only of the mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

M. Mortgagee Obligations—If the Insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

N. Loss Payable Clause
(Applicable to contents item only and effective only when a loss payee is named In Application and Declarations Form.)
Loss, if any, shall be adjusted with the Insured and shall be payable to the Insured and loss payee as their interests may appear.

O. Requirements in Case of Loss—The Insured shall give written notice, as soon as practicable, to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by this Company, the Insured shall render to this Company a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of this Company, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

P. Appraisal—In case the Insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the Insured or this Company, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Q. Company's Options—It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

R. Abandonment—There shall be no abandonment to this Company of any property.

S. When Loss Payable—The amount of loss for which this Company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the Insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

T. Action Against the Company—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Company may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

U. Subrogation—In the event of any payment under this policy, this Company shall be subrogated to all of the Insured's right of recovery therefor against any party, and this Company may require from the Insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of this Company.

W. F. Williams

Attorney-in-Fact for the Insurance Companies Members of National Flood Insurers Association

SPECIAL PROVISIONS

A. A list of all Insurance Companies members of the National Flood Insurers Association is on file in the office of the State Insurance Department of the State where the property covered is located and a copy may be obtained upon request from the office of the National Flood Insurers Association, 160 Water Street, New York, N. Y. 10038.

B. All notices or other communications required by this policy to be given to the Company shall be given to the Servicing Company designated on the Application and Declarations Form attached to this policy, and such notice shall be considered to constitute notice to the Company.

9.1 PREMIUM NOTICE (PAYOR)—NFIA-50—50-A APPENDIX B

Approximately one and a half months before expiration of a policy for which the NFIA is able to determine rates and calculate renewal premiums, the payor (insured or mortgagee) is sent a premium notice advising him of the approaching expiration and specifying renewal premium amounts. The bottom of the form is a detachable renewal stub to be returned to the NFIA with the premium. Instructions for preparing the form are printed on its back. Samples of the front and back of the form are presented below and on the following page. NFIA-50A, marked "Agent's Copy," is sent to the agent at the same time as the premium notice is sent to payor; it is identical to the payor's copy.

NATIONAL FLOOD INSURANCE PREMIUM NOTICE

POLICY NR: SERVICE COMPANY: DATE:

IMPORTANT – YOUR CURRENT FLOOD INSURANCE POLICY WILL EXPIRE
SEE REVERSE FOR INSTRUCTIONS

A Shows your current level(s) of insurance and the total premium due to renew your insurance at these levels.

B Due to increased repair and replacement costs, it is recommended that you consider increasing your amount of building insurance as shown (see replacement cost provision of your policy). If you elect this option for the next annual term your renewal premium would be as shown.

		AMOUNT OF INSURANCE	PAYABLE PREMIUM
A	BUILDING CONTENTS		
			TOTAL DUE
		AMOUNT OF INSURANCE	PAYABLE PREMIUM
B	BUILDING CONTENTS		
			TOTAL DUE

PAYOR NAME & MAILING ADDRESS

LOCAL AGENT NAME & MAILING ADDRESS

NFIA-50

PAYOR COPY

DETACH HERE

NATIONAL FLOOD INSURANCE RENEWAL FORM

DETACH HERE

POLICY NR: PLAN: COMPANY NR: COMMUNITY: ZONE:

RENEWAL EFFECTIVE DATE: RENEWAL EXPIRATION DATE:

1. CHECK EITHER A OR B FOR DESIRED AMOUNT OF INSURANCE.
2. DETACH THIS RENEWAL FORM AND RETURN IT WITH CHECK OR MONEY ORDER PAYABLE TO NATIONAL FLOOD INSURERS ASSOCIATION FOR THE EXACT AMOUNT SHOWN IN A OR B.
3. WE REQUEST YOUR RENEWAL PREMIUM PAYMENT BE MADE PRIOR TO

TOTAL RENEWAL PREMIUM DUE	COMPANY USE
A ☐	
B ☐	

MORTGAGEE KEY

AGENT NUMBER

NATIONAL FLOOD INSURERS ASSOCIATION
P.O. BOX 2768
ARLINGTON, VA. 22202

INSURED NAME & MAILING ADDRESS

If you have any questions or wish to change your amount of insurance to other levels than in B shown above, CONTACT YOUR LOCAL AGENT.

NFIA-50

NATIONAL FLOOD INSURANCE COPY

Regular Flood Insurance Program
Application and Declarations Form
(For Use Only With the Flood Insurance Policy)

R REGULAR FLOOD INSURANCE PROGRAM

APPENDIX C (1)
Insurance Companies Members of National Flood Insurers Association (In Cooperation with the U.S. Government)

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

Important Notices: This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance.

Space for Agent's Name and Mailing Address (Sticker)

Policy No. FL

RENEWAL: YES ☐ NO ☐
(IF RENEWAL, USE SAME NUMBER)

Insured's Name and Mailing Address
Number, Street, City or Town, County, State, Zip Code)

_____

_____

_____

_____

Policy Term 1 Year, from _____ to _____

Inception (Mo. Day Yr.) Expiration (Mo. Day Yr.) 12:01 AM. Standard Time at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

Community # _____ FIRM Zone # _____

ITEM NO.	AMOUNT OF INSURANCE a) First Layer b) Second Layer	RATES AND PREMIUMS — ACTUARIAL RATES	ACTUARIAL PREMIUMS (Check Box ☐ if $15 Expense Constant Included.)	PAYABLE BY THE INSURED RATES a) Payable b) Actuarial	PAYABLE BY THE INSURED PREMIUMS
1. Bldg.	a) $_____ b) $_____ $_____ Total	_____	$_____ ☐ $_____ $_____ Total	a)_____ b)_____	a) $_____ ☐ b) $_____ $_____ Total
2. Conts.	a) $_____ b) $_____ $_____ Total	_____	$_____ ☐ $_____ $_____ Total	a)_____ b)_____	a) $_____ ☐ b) $_____ $_____ Total
Notice: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act.			$_____	**Grand Total Premium Payable By Insured →**	$_____

Description and Location of Property Covered
(Location same as mailing address above unless otherwise indicated)

Occupied as _____

Located at _____

On Contents consisting principally of _____

in the Enclosed Building Described Above ☐: or _____

Located at _____

Loss Payee (Contents): _____

INSERT NAME(S) AND MAILING ADDRESS(ES)

Mortgagee (Building): Insert name(s) and Mailing Address(es) _____

Mortgagee pays new and renewal ☐ renewal only ☐

Base Flood Elevation from FIRM = _____

First Floor Elevation — Certify = _____

Dift. Plus (+) or Minus (—) To Nearest Foot = _____

Does Insured Qualify as "Small Business?" Yes ☐ No ☐

Is Structure Single Family ☐; 2-4 Family ☐; Other Residential ☐; All Other ☐

Is This a Motel or Hotel Structure with normal occupancy of less than six (6) Months? Yes ☐ No ☐

Is this "New Construction or Substantial Improvement"? Yes ☐ No ☐

Date New Construction or Substantial Improvement started _____

Is structure within ☐ corporate limits or ☐ unincorporated area of county.

One Story — Basement	☐	No Basement ☐
Two or more Stories — Basement	☐	No Basement ☐
Split Level — Basement	☐	No Basement ☐
Mobile Home on Foundation	☐	

Masonry walls-slab foundation ☐
Masonry walls-other foundation ☐
All other walls-slab foundation ☐
All other walls-other foundation ☐
} Check only one box

Contents Rated as:	Residential	All Other
All in Basement —	☐	☐
All on First Floor —	☐	☐
All on First Two Floors —	☐	☐
All on First Floor & Basement —	☐	☐
All on First Two Floors & Basement —	☐	☐
All above First Floor —	☐	☐
All in Mobile Home on Foundation	☐	☐

_____ DATE OF APPLICATION

The above statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

TO BE COMPLETED BY N.F.I.A. SERVICING OFFICE

SERVICING COMPANY NAME AND ADDRESS

COUNTERSIGNATURE DATE AUTHORIZED REPRESENTATIVE

_____
SIGNATURE OF INSURED OR AGENT

Agent's Tax Number _____

Agent Certifies that following matters have been discussed with insured:
1) That loss already in progress on date of application is not covered;
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

NFIA-2 (Ed. 7-74)

MORTGAGEE'S COPY

APPENDIX C (2)

Emergency Flood Insurance Program
Application and Declarations Form
(For Use Only With the Flood Insurance Policy)

EMERGENCY FLOOD INSURANCE PROGRAM

Insurance Companies Members of National Flood Insurers Association
(In Cooperation with the U.S. Government)

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

Important Notices: This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance.

Space for Agent's Name and Mailing Address (Sticker)

Policy No. FL

RENEWAL: YES ☐ NO ☐
(IF RENEWAL, USE SAME NUMBER)

Insured's Name and Mailing Address
(Number, Street, City or Town, County, State, Zip Code)

_____
_____
_____
_____

Policy Term 1 Year, from _____ to _____
Inception (Mo. Day Yr.) Expiration (Mo. Day Yr.) 12:01 AM (Standard Time) at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

Community # _____ Property in Zone A? Yes ☐ No ☐

ITEM NO.	AMOUNT OF INSURANCE	RATE	PREMIUM	DESCRIPTION AND LOCATION OF PROPERTY COVERED (Location same as mailing address above unless otherwise indicated)
1. Bldg.	$_____	_____	$_____	Occupied as _____ Located at _____
2. Conts.	$_____	_____	$_____	On Contents consisting principally of _____ in the Enclosed Building Described Above ☐; or Located at _____ Loss Payee (Contents):
Notice: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act.		**Total Premium →**	$_____	INSERT NAME(S) AND MAILING ADDRESS(ES)

Mortgagee (Building): Insert Name(s) and Mailing Address(es) _____

Mortgagee pays new and renewal ☐ renewal only ☐

Does insured qualify as "Small Business" Yes ☐ No ☐

Is structure Single Family ☐; 2—4 Family ☐; Other Residential ☐; All other ☐

Is this a Motel or Hotel Structure with normal occupancy of less than six (6) months? Yes ☐ No ☐

Is this "New Construction or Substantial Improvement"? Yes ☐ No ☐

Date New Construction or Substantial Improvement started _____

Is structure within ☐ corporate limits or ☐ unincorporated area of county.

One Story—Basement	☐	No Basement ☐
Two or More stories—Basement	☐	No Basement ☐
Split Level—Basement	☐	No Basement ☐
Mobile Home on Foundation	☐	

Masonry walls-slab foundation	☐
Masonry walls-other foundation	☐
All other walls-slab foundation	☐
All other walls-other foundation	☐

Check only one box

Contents Rated as	Residential	All Other
All in Basement	☐	☐
All on First Floor	☐	☐
All on First Two Floors	☐	☐
All on First Floor & Bsmt.	☐	☐
All on First Two Floors & Bsmt.	☐	☐
All Above First Floor	☐	☐
All in Mobile Home on Foundation	☐	☐

TO BE COMPLETED BY N.F.I.A. SERVICING OFFICE

SERVICING COMPANY NAME AND ADDRESS

COUNTERSIGNATURE DATE AUTHORIZED REPRESENTATIVE

_____
DATE OF APPLICATION

The above statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

_____
SIGNATURE OF INSURED OR AGENT

Agent's Tax Number _____

Agent Certifies that following matters have been discussed with insured:
1) That loss already in progress on date of application is not covered;
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

NFIA-4 (Ed. 7-74)

MORTGAGEE'S COPY

APPENDIX D

(1) *Mudslide.* The term "mudslide" shall be interpreted to mean mudflow, a condition where there is actually a flow of mud down a slope.

The occasion for the amendment of the flood policy to include mudslides was the devastating mudflows that had occurred in a number of Southern California communities in 1969 (notably in Glendore, California, which mudflow catastrophe was graphically depicted in the October, 1969 issue of the "National Geographic" magazine), as a result of a record number of grass and brush fires during the summer of 1968, followed by record rains from mid-January until early March the next year. Homes were washed down hills or inundated by what were literally rivers of mud coming down from the hills. Unfortunately, the press and other media at the time characterized these mudflows as "mudslides," a term more identified, really, with landslides.

Thus, the "mudslide" peril was added to flood coverage in the 1969 Housing Act. But it was not added as a peril completely separate from the notion of flood; rather, it was considered analogous to, and essentially a part of, the flooding condition, and was therefore, added by the Congress as an additional meaning of the term "flood" itself. Consequently, we have construed the Congressional intent in the light of the context in which the peril was added, i.e., as a result of the mudflow losses that had occurred in Southern California. Blanket coverage for all types of earth movement was not intended to be covered, and no coverage is provided for improper building or use of fill where rainfall alone is the proximate cause of loss.

Mudflow, on the other hand, tends to involve an abnormal condition akin to flooding, where there would usually be a combination of loss of grass and brush cover, followed by a period of unusually heavy or sustained rains, causing the loosened soil to turn to mud and to begin its flow down the hillside. Such an occurrence is clearly the more fortuitous kind of event that property insurance is normally intended to cover. FIA has consistently adhered to the principle that under the definition of "flood" (which includes mudslides) in the policy there is no mudslide occurrence unless and until there exists a condition of inundation by mudslide in the area in which the insured property is located and that inundation by mudslide necessarily involves a mudflow and not merely a landslide or erosion, whether gradual or sudden. It is with these concepts in mind that the Standard Flood Insurance Policy was amended on July 1, 1974, to specifically add the "mudflow" concept by defining the mudslide peril as being a "flood," as follows: "A general and temporary condition of partial or complete inundation of normally dry land areas from * * * 3 Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground." Loss by landslide or any other earth movement is still excluded under the policy.

In recognition of the need for a restatement of the Congressional intent underlying the addition of the mudslide coverage to the policy, the United States Senate in its Report on the Flood Disaster Protection Act of 1973 affirmed that FIA had correctly construed the term "mudslide" in the 1969 amendment to mean "mudflow; namely, a condition where there is actually a river, or flow, of 'liquid mud' down a hillside, usually as a result of a dual condition of loss of brush cover and subsequent heavy rains" and that "Clearly, the committee intended this condition to be covered when it added the mudslide amendment to the Act in 1969." The Committee also stressed, at pages 13 and 14 of the Report, that FIA would be expected to pay for mudflow losses that occur unexpectedly while a landslide is in progress, so long as the mudflow and not the landslide is the proximate cause of the damage. See Senate Report No. 93-583, 93rd Congress, 1st Session (November 29, 1973).

(2) *Loss in progress.* Basically, under the Standard Flood Insurance Policy, buildings and contents are insured against all direct loss by flood. If a loss is in progress at the time of the inception of coverage, the coverage does not apply to such loss.

The determination as to whether a loss shall be considered to have been in progress at the inception of the contract of insurance turns on the test of when the damage occurred:

If the bulding had already sustained damage by flood, mudflow, or flood related erosion ("flow") at the time of the inception of the policy, coverage will not apply for that loss.

If the building had not been damaged at the inception time, even though the flood may already have entered the land of the owner or caused damage to the land, coverage will apply.

If the building had already sustained damage at the policy's inception time, then subsequently, due to a new flood occurrence, sustained additional damage, the additional damage occasioned by the new event is a covered loss.

Damage to the insured's land, or damage to his neighbor's land or buildings, is immaterial. The test is concerned with the time of damage to the insured's building or contents in relation to the inception time of the policy.

(3) *Flood related erosion.* Under the Standard Flood Insurance Policy, property damage resulting from wave action along a lake or other body of water would be considered a direct loss by flood if the proximate cause of the damage were a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual rapid accumulation or runoff of surface waters from any source.

When a sudden surge or force of nature, such as a severe storm, deluge, or hurricane, accelerates the normal wave action or otherwise causes an abnormally rapid and severe inundation and/or sudden washing away of normally dry land areas by water, any structural property damage proximately caused thereby would be covered under the flood insurance policy. However, where normal, continuous wave action, accompanied by ordinary erosion or the gradual and anticipated wearing away of the land, is the proximate cause of structural property damage, there is no coverage.

The Congress, in recognition of these principles, codified the definition of covered flood related erosion, in § 108 of the Flood Disaster Protection Act of 1973, which has been included in the Standard Flood Insurance Policy as follows: "Definition of 'Flood'—B. The collapse or subsidence of land along the shore of a lake or other body of water exceeding the cyclical levels which result in flooding as defined in A-1 above."

Thus, the concept of flood now includes a type of erosion; an erosion caused by high levels of water in a lake or other body of water. The fact situation for coverage to apply does not require surface flooding, nor severe storm conditions. The touchstone for coverage is a finding of waves or currents of water exceeding anticipated cyclical levels. This latter phrase admittedly presents certain technical difficulties in its application; however, we beleve that the compilation and interpretation of the necessary data are not beyond the ken of particular experts in the field. The information can then be matched to the specific claim file, and if relevant, a showing of erosion or undermining causing collapse or subsidence with resulting property damage, would establish a prime facie case.

(4) *Sewer and drain back-up coverage.* First, it is clear that the program does not cover drain back-up that is unrelated to a general condition of flooding as defined in the policy. The two kinds of flooding (other than mudslide and erosion) defined in the policy, of course, are tidal, lake, or stream overflow and surface flooding.

Drain back-up related to surface flooding requires an actual condition of surface flooding in the community or area where the drain back-up occurs. Example. Thus, if a sudden heavy rain fills gutters and overloads sewer systems within a community, causing considerable damage from residential drain-back-up, but there is no evidence of damage from general surface flooding within the community (such as that caused by water entering through basement windows) then no coverage is provided under the policy.

On the other hand, if there has obviously been a flash flood and substantial damage from surface runoff is evident, then related sewer back-up losses are also covered, and there is no need for the adjuster to separate out damage caused by drain back-up from that caused, for example, by water entering through the basement windows, as long as he is satisfied that the damage has not resulted primarily from causes on the insured's own property.

Drain back-up directly related to rising waters or the overflow of natural bodies of water is similarly covered. All that must be shown is that the drain back-up loss was proximately caused by rising waters in an identifiable body of water that is at or above flood stage. "Flood stage" is generally defined as the stage or elevation at which the overflow of the *natural* banks of a stream or body of water begins, *in the reach or area in which the elevation is measured* (Emphasis supplied.)

Example. Thus, if the Mississippi River is at flood stage and is prevented from overflowing its banks at a particular location by a levee, but the waters back up into a nearby tributary, flooding adjacent properties either through the overflow of the tributary or the back-up of water into the sewers emptying into the tributary, then all of the resulting damage would be covered under the policy, since no damage would have occurred but for the fact that the Mississippi River was at flood stage.

To recapitulate, it is proper under the policy to pay drain back-up losses which, like erosion losses or mudslide losses (both of which have now been added by statute), are directly and proximately caused by a covered form of flooding. It makes no sense to deny coverage for the relatively minor damage to properties caused by drain back-up at locations where levees have been built, while at the same time paying for major structural damage to properties at locations where levees have not been built, when both types of losses are caused by the same water level in the same stream.

(5) *Seepage and high water table coverage.* The program does not cover losses which are causally related solely to high water tables or or seepage. The Standard Flood Insurance Policy only covers losses arising out of a general condition of flooding. The two kinds of floding (other than mudslides and erosion) defined in the Standard Flood Insurance Policy are surface flooding, tidal, lake or stream overflow. For damage related to seepage or a high water table to be covered, in the case of surface flooding, the event must be proximately caused by and be a part of a natural condition of surface flooding in the

community or area where the seepage damage or high water table occurs. Example A. Thus, if a sudden, heavy rain increases the water table in a given area and causes seepage of water, resulting in considerable damage, but there is no evidence of damage from a general surface flooding within the community (such as that caused by water entering through basement windows), then no coverage is provided under the policy. On the other hand, if there has obviously been a flash flood and substantial damage from surface water runoff is evident in the community or area, then, related high water table and seepage losses, so long as they are part of the same flooding event are also covered. In addition, there is no need, in such cases, for the adjuster to separate out damage caused by seepage from that caused, for example, by water entering the basement window as long as he is satisfied that the damage has not resulted primarily from causes on the insured's own property and that there was a general condition of flooding in the community or area which was the proximate cause of the loss.

Seepage and high water table damage directly related to rising waters or the overflow of natural bodies of water is similarly covered. All that must be shown is that the loss was proximately caused by rising waters in an identifiable body of water that is at or above flood stage. "Flood stage" is generally defined as the stage or elevation at which the overflow of the *natural* banks of a stream or body of water begins, *in the reach or area in which the elevation is measured.* (Emphasis supplied.)

Example B. Thus, while an identifiable body of water is at or above flood stage and is prevented from overflowing its banks at a particular location by a levee, but the waters (either through back-up of a nearby tributary, or the creation of an unusually high water table) flood adjacent properties through seepage of water into buildings in the area, then all of the resulting damage would be covered under the policy, since no damage would have occurred but for the fact that the Mississippi River, for example, was at flood stage.

To recapitulate, it is proper under the policy to pay seepage and high water table losses which, like erosion losses or mudslide loses (both of which have now been added by statute), are directly and proximately caused by a covered form of flooding.

(6) *Coverage for expenses incurred in removing insured contents away from the peril of flood.* Insureds who take the precaution of removing insured contents or personalty away from the peril of flood are to be compensated for the reasonable expenses of removing the contents of an insured structure from the path of a flood which is of such imminence as to lead a person of common prudence to apprehend damage to such contents inasmuch as such loss or expense constitutes loss proximately resulting from flood under the Standard Flood Insurance Policy.

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MONDAY, AUGUST 30, 1976

PART VII:

DEPARTMENT OF COMMERCE

Economic Development Administration

■

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 316—LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

The Economic Development Administration, pursuant to Title I of the Public Works Employment Act of 1976, hereby amends 13 CFR 316.2, 316.10 and 316.13 for the purposes of defining a "general purpose unit of local government;" adding to the "basic rank" of the "project selection formula" the fourth factor, which was previously omitted; and to correct the references to specified subsections.

Section 316.2 is amended to add a definition for a "general purpose unit of local government."

Section 316.10(a)(2)(i) is amended by adding a new paragraph (D) to provide for consideration of the level of income prevailing in the project area as the fourth factor, constituting 15 percent, of a project's basic rank.

Section 316.13(a)(2) is amended to change the references to "subsections C and D" to "subsections (iii) and (iv)", respectively.

In that the material contained herein is a matter relating to an EDA grant program and because these amendments are corrections of existing regulations, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking opportunity for public participation and delay in effective date are inapplicable.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions regarding these amendments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230, on or before September 21, 1976. All suggestions will be considered in revising or amending these regulations. Until such time as further changes are made, however, the amended regulations shall remain in effect, thus permitting the public business to proceed more expeditiously.

Consideration has been given as to whether matters set forth in these amendments constitute a major proposal with an inflationary impact within the meaning of OMB Circular No. A–107 and the interpretative guidelines issued by the Department of Commerce. It has been determined that these regulations do not constitute action requiring an inflationary impact statement.

In consideration of the foregoing, 13 CFR Chapter III is hereby amended as follows:

1. Section 316.2 is amended by adding after the definition of "Assistant Secretary" the following new definition:

§ 316.2 Definitions.

* * * * *

General purpose unit of local government means any city, county, town, parish, Indian tribe, or any other "unit of general local government" as included within the definition of that term by section 4201(4) of the Intergovernmental Cooperation Act of 1968. (42 U.S.C. 4201 et seq.)

* * * * *

2. Section 316.10(a)(2)(i) is amended by adding the following new paragraph (D):

§ 316.10 General considerations and requirements for assistance.

(a) * * *
(2) * * *
(i) * * *

(D) The level of income prevailing in the project area. This factor will constitute 15 percent of a project's basic rank.

* * * * *

§ 316.13 [Amended]

3. Section 316.13(a)(2) is amended to change the references to subsections "C and D" to "(iii) and (iv)", respectively.

(Title I, Pub. L. 94–369 (July 22, 1976); 42 U.S.C. 6701 et seq.; 90 Stat. 999; and Department of Commerce Organization Order 10–4 (September 30, 1975) as amended (40 FR 56702, as amended at 40 FR 58878 and at 41 FR 35548).)

Effective date: This amendment becomes effective on August 30, 1976.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular No. A–107.

JOHN W. EDEN,
Assistant Secretary for Economic Development.

AUGUST 26, 1976.

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